Calendar No. 485

101st Congress
2d Session

SENATE

Report
101-253

SENATORIAL ELECTION CAMPAIGN ACT OF 1989

REPORT

OF THE

COMMITTEE ON RULES AND ADMINISTRATION

together with

MINORITY AND ADDITIONAL VIEWS

TO ACCOMPANY

S. 137

TO AMEND THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 TO PROVIDE FOR A VOLUNTARY SYSTEM OF SPENDING LIMITS AND PARTIAL PUBLIC FINANCING OF SENATE GENERAL ELECTION CAMPAIGNS, TO LIMIT CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES, AND FOR OTHER PURPOSES

March 21 (legislative day, January 23), 1990.—Ordered to be printed

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The Committee appreciates the assistance of Joseph E. Cantor, of the Congressional Research Service, in the preparation of this report.

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March 21 (legislative day, January 23), 1990.—Ordered to be printed

Mr. Ford, from the Committee on Rules and Administration, submitted the following

REPORT

together with

MINORITY AND ADDITIONAL VIEWS

[To accompany S. 137]

The Committee on Rules and Administration, to which was referred the bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes, having considered the same, reports favorably thereon, with amendments.

Purpose of the Bill

The purpose of S. 137, as reported, is to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and public benefits for Senate general elections, to limit contributions by multicandidate political committees and separate segregated funds to candidates and party committees, to entend and improve reporting and disclosure requirements, and to improve other provisions of that Act, as amended in 1974, 1976 and 1979.

PUBLIC BENEFITS FOR SENATE ELECTIONS

S. 137 would establish a voluntary system of spending limits tied to public benefits for candidates to the United States Senate in general elections, beginning in the first election held in 1992. The bill establishes a number of conditions to which a candidate must agree as a condition of eligibility for public benefits.

To be eligible for public benefits a candidate must have received contributions from individuals in an amount based on the population of the State from which the candidate seeks office. The qualifying threshold of contributions would range from $150,000 in the less populated States to $650,000 in the States with highest populations based on the formula of 10 cents multiplied by the voting age population of the State. Such contributions must be raised from individuals in amounts of $250 or less, with at least 75 percent from in-state donors.

All candidates who wish to receive public benefits must agree to limit expenditures in the general election campaign to $400,000, plus 30 cents times the voting age population of the State up to four million population, plus 25 cents times the voting age population in excess of four million, but in no case less than $950,000, nor more than $5.5 million. Participating candidates would also be limited in expenditures or loans of their personal and immediate family's funds to $20,000; in expenditures in a primary election to the lesser of $2,750,000 or 67% of the State's general election spending limit; and in expenditures in a runoff election to 20 percent of the general election spending limit. All such limits will be annually adjusted to account for inflation, and an additional 10 percent of the general election limit will be allowed for legal and accounting fees spent to insure compliance with the Act.

A participating candidate will be entitled to receive in the general election: lowest unit rates for broadcast advertising (with the additional requirement that the candidate must be identified or identifiable during at least 50% of such broadcasts); lower postal rates for first- and third-class mailings (up to 5 percent of the general election limit); and direct payments equal to the total independent expenditures made against that candidate or for his opponent in the general election.

The Supreme Court, in *Buckley* v. *Valeo*, 424 U.S. 1, 57 (n. 65), 85–86 (1976), has upheld as constitutional voluntary expenditure limitations on campaign spending by candidates who receive public benefits. While those candidates who do not accept public benefits may not be subject to such limitations, they are required by this bill to file certain reports. Upon the filing of a report by a non-participating candidate to the effect that he or she has exceeded the spending limit, a participating candidate, if a major party candidate, would be entitled to public funds equal to two-thirds of the spending limit and an additional payment equal to one-third of the spending limit once the non-participant has exceeded the limit by another one-third. A participating candidate who is not a major party candidate would be entitled to receive matching payments for contributions from individiuals of $250 or less, up to one-half of the spending limit, once the non-participant has exceeded the limit. Spending limits on participating candidates would be raised accordingly when such public funding is triggered, and limits on spending from personal funds and on overall campaign activities are removed entirely once a non-participating opponent exceeds 133⅓% of the spending limit. Finally, all advertisements by non-participants would be required to carry a disclaimer indicating that the candidate does not abide by spending limits.

If independent expenditures in excess of $10,000 are made by an individual or group against a participating candidate or for his or her opponent, that candidate would be entitled during the general election period to public funds equal to the amount spent. If such aggregate spending occurs before the general election period, the applicable spending limit for that candidate would be increased by an amount equal to such spending.

The funds for paying the public financing provided in this bill would be raised by doubling the amount of the present income tax checkoff to $2 per person and $4 for a joint return (26 U.S.C. Section 6096(a)). After setting aside sufficient funds for the presidential general elections, party conventions and presidential primaries, the Secretary of the Treasury would set aside the remaining amount for the Senate Fund, from which payments would be made to Senate candidates. There is no provision for an appropriation of funds to this account. The committee estimates the cost for funding the Senate elections in 1992 to be $30 million, based on the Congressional Budget Office estimate. This estimate, of course, depends on the number of candidates who choose to accept public financing and the voting age population of their States. Administrative costs would be about $1 million annually. The estimate assumes that only 50 percent of the Senate candidates will participate. If the candidates in all States participated in 1992, the cost would be about $60 million. It is not anticipated that independent expenditures will be of sufficient amounts to require the payment of any public funds to candidates.

Senate public financing will be administered by the Federal Election Commission, which will have authority to certify the eligibility of candidates and the payment of funds. The Commission will be required to audit on a random basis 10 percent of all major party candidates and 10 percent of all other candidates who participate, and will be authorized to audit any candidate when there is reason to believe that a violation may have occurred. The Commission is authorized to order the repayment of funds in any case where excess funds are received by a candidate, where a candidate uses funds for other than general election campaign purposes or where a candidate exceeds the expenditure limits. Such repayments are to be deposited to the Senate Fund. Knowing and willful violations are punishable by fines ranging from $10,000 to $25,000 and/or imprisonment up to five years depending on the nature of the violation. The Commission is authorized to promulgate regulations and is required to submit post election reports to the Senate regarding the operation of the public funding program during each election. The Commission will, upon petition by a candidate, be authorized to permit a candidate to raise and spend amounts for compliance purposes in excess of 10 percent of his or her general election spending limit.

POLITICAL COMMITTEE CONTRIBUTION LIMITS

Limits will be placed on the aggregate amount of contributions a candidate to Congress may receive from non-party multicandidate political committees and separate segregated funds. A candidate to the House of Representatives would be limited to $100,000 in a two-year election cycle, with an additional $25,000 allowed if both the general and primary elections are contested and another $25,000 if the candidate also has a runoff election. A Senate candidate would be limited to an amount equal to 30 percent of the applicable primary spending limit and an additional 30 percent of the applicable runoff spending limit if there is a runoff election. These limits are subject to indexing keyed to an increase in an established price index.

Political party committees will also be subject to limits on contribution receipts from such committees during any two-year election cycle. The two national political party committees will be limited to an amount equal to 2 cents times the voting age population of the United States. The Congressional political party committees will be limited to an amount equal to 30 percent of the amount permitted to be spent pursuant to section 441a(d) (Title 2, United States Code) on behalf of all candidates for the House or Senate. The limit on such receipts applicable to State political party committees, and their subordinate committees, will be an amount equal to the greater of $25,000 or 2 cents times the State's voting age population.

REPORTING AND DISCLOSURE

The bill amends the Federal Election Campaign Act of 1971 in a number of respects to improve its operation. A main thrust of these changes is in the area of the reporting requirements of section 434 (Title 2, United States Code). Some of these changes relate directly to the operation of the public benefits provisions. All candidates will be required to file certain reports. Within one day after the candidate qualifies for the general election ballot under State law, a report must be filed on whether or not he or she intends to abide by the spending limits. For those not eligible for benefits, it would require subsequent reports when such candidate raises or spends more than 75% of the spending limit and each time an additional 5% of the limit is raised or spent, until 133⅓% of the limit is reached. The Commission is required to give a participating candidate notice within 24 hours of the filing of such reports and is authorized to make its own findings regarding such spending and notify a participating candidate based on its own findings.

New reporting requirements will also apply to any person, or persons acting in concert, making independent expenditures in a federal election. Within 24 hours after such a person, or persons acting in concert, incurs or becomes obligated to incur an expenditure in excess of an aggregate amount of $10,000 in a two-year election cycle against a candidate or in favor of a candidate's opponent, such person is required to notify the Commission and the appropriate Secretary of State of the expenditure and the identity of the candidate it is intended to support or oppose. During the general election period the Commission is required to notify any participating candidate who is so identified within 24 hours of the filing of such a report and to certify payment for that candidate directly to the Secretary of the Treasury. The Commission is also authorized to make its own findings regarding such independent spending and make appropriate notifications based on its own findings. Notice to a candidate by the Commission is not required before the general election period.

Certain provisions of this bill will affect the reports now required under the Act. The bill will require candidates and their authorized committees to aggregate financial data in their reports on an election cycle basis, rather than a calendar year basis. Another amendment would specify that candidate reports include the relevant expenditure information regarding a secondary payee in cases where expenditures are made to a secondary payee by a person providing consulting or other services to a candidate.

A new provision would require a political committee that engages in non-federal election activities and maintains separate accounts for such activities to report its receipts and expenditures for activities that may influence a federal election.

Amendments to the definitions in Section 431 (Title 2, United States Code) would have the effect of broadening disclosure by changing the information and activities required to be reported. The definition of "identification" will be modified to require reporting of a person's permanent residence rather than one's mailing address. The definitions of "contribution" and "expenditure" have been modified so that certain activities that were exempt for all purposes under the Act will no longer be exempt for reporting purposes when in excess of $200. Such reportable contributions or expenditures (popularly known as "soft money") in excess of $200 will include those pertaining to political party building funds, state or local party committee slate cards and sample ballots, and fundraising costs of candidate's authorized committees.

OTHER AMENDMENTS

The making of a contribution through an intermediary or conduit will be restricted and, in some instances, prohibited to the extent it exceeds the contribution limit of the person engaging in such activity. In any case in which a contribution is made through another person, the maker must make the check payable to the candidate for whom it is intended and not to the person acting as conduit, or it will be credited against the contribution limit of the conduit as well as that of the contributor. Earmarking of contributions will be prohibited to the extent it involves amounts in excess of the contribution limit of the conduit. Political committees, connected organizations their officers and employees, and lobbyists will be prohibited from acting as conduits or intermediaries of contributions to candidates to the extent such contributions exceed the contribution limit of such committees or individuals. Any such contributions must be counted against the committees' or individuals' own contribution limits, regardless of to whom checks were made payable. Political party committees will be permitted to so act beyond their contribution limits only in the context of joint fundraiser activities with candiates or other party committees.

The bill specifies certain activities and relationships between candidates and other persons that will be considered to constitute cooperation, coordination or in concert for the purposes of determining whether or not an expenditure is independent and thus not subject to contribution limits of the Act. Once such a relationshp is established, even if before a person formally becomes a candidate, it will continue throughout the election cycle for purposes of determining the independence of such a person's expenditures during a campaign. Controlled, coordinated, or prearranged expenditures are to be treated as contributions according to the Supreme Court in *Buckley v. Valeo,* 424 U.S. at 46-47. Any televised political broadcast sponsored by a person with an independent expenditure will be required to display, throughout the broadcast, a statement identifying the sponsor, and if a committee, any affiliated organizations. Similar disclosure information will be required in other forms of political advertisements by persons acting independently of a candiate, along with a statement that the cost of such ads were not subject to any campaign contribution limits.

A limit of four cents times the voting age population of a State will be imposed on expenditures by State and local party committees in connection with their parties' Presidential tickets, and contributions and expenditures for certain types of material used in grassroots activities, and for get-out-the-vote and registration drives will no longer be exempt from the provisions of the Act. Presidential candidates and their agents will be prohibited from engaging in spending or raising of any money in federal, state or local elections which is not subject to the restrictions and requirements of federal law. The bill also prohibits party committees at all levels from allocating any funds used in connection with a federal election to a non-federal account.

The bill seeks to improve the Federal Election Commission's ability to vigorously enforce the law by adding a seventh member to the Commission, allowing one party to hold a clear majority at a given time but allowing no party to hold that majority for two successive years.

The bill contains a number of additional amendments, described further in this report, which reflect the experience of past elections and are designed to improve the operation of the Act.

COMMITTEE ACTION

S. 137 was introduced on January 25, 1989 by Senators Boren, Mitchell, Byrd, Bingaman, Moynihan, Dodd and Reid to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes, and referred to the Committee on Rules and Administration.

The Committee held a series of hearings (April 12, April 20 and June 14, 1989; February 22, February 27 and March 1, 1990) on S. 137 and other campaign finance measures pending before the Committee (S. 7, S. 56, S. 137, S. 242, S. 326, S. 330, S. 332, S. 359, S. 597, S. 1655, S. 1727 and S. 2120), and received materials and/or heard from Members, former Members, political scientists, and representatives of organizations interested in finance of Senate election campaigns.

On March 8, 1990, the Committee held a markup session on S. 137, which bill Chairman Wendell H. Ford recommended to serve as a vehicle to move further consideration and debate on campaign finance to the floor of the Senate for action by the full Senate. He noted that a panel of experts appointed by the Majority and Minority Leaders had presented its report on Senate campaign finance only the day before. In addition, each Leader had selected a task force of Members to make recommendations on this subject, and it appeared that the Leadership would propose a comprehensive substitute amendment to whatever bill the Committee reported.

Following a brief discussion, the Committee, by a record vote of 7-3, voted to report S. 137, without substantive amendment but with technical and conforming corrections to the text of the bill.

SPENDING LIMITS AND PUBLIC BENEFITS IN SENATE ELECTIONS

The bill introduces a new concept into the electoral process—that of voluntary campaign spending limits in exchange for a candidates' eligibility to receive cost-reduction benefits. The plan is based on the Nation's experience with public financing of Presidential primaries, conventions and general elections since 1976 and the Supreme Court's landmark ruling in the 1976 *Buckley* v. *Valeo* case. In that decision, the Court had ruled that, while mandatory campaign expenditure limits were an unconstitutional infringement on First Amendment rights, a system of voluntary campaign limits, tied to such inducements to participation as the public financing available in Presidential elections, could pass muster.

Although problems have developed with the Presidential public financing system, such as the "soft money" issue which this bill addresses, there is far more to commend it as it has worked in the four elections since 1976. Public funds expended on those Presidential elections have increased from approximately $72 million in 1976 to approximately $178 million in the 1988 Presidential elections. All of these elections were financed from the Presidential Election Campaign Fund to which millions of citizens, approximately 35 milion each year, have contributed since its inception in 1971. This represents the most broadly based financing of Presidential elections in history. After an extensive examination of the Presidential public financing system, the Commission on National Elections concluded, "Public financing of presidential elections has clearly proved its worth in opening up the process, reducing undue influence of individuals and groups, and virtually ending corruption in presidential finance."

While many supporters of S. 137 have expressed their frank preference for a system of public financing for Senate races similar to that in Presidential elections, the Committee concluded that sufficient support was not there at this time for public financing. In view of the Nation's substantial budget deficit, many argued we could not afford such a program at this time. Although public financing offers the potential advantage of eliminating, or greatly reducing, the reliance by candidates on private sources of funds, it was decided that the most important goal of reform legislation must be the capping of campaign expenditures. Hence, the system of cost-reduction benefits was devised, which would cost the taxpayers relatively little, while serving both as suppressants of rising campaign costs and inducements to candidates' voluntary adherence to overall campaign limits. Public financing, as we have come to think of it, would be used only on an occasional basis, as a form of protection to candidates who agree to the limits but whose opponents exceed them. The Committee felt that such a plan could achieve the goal of reducing campaign spending without adding any appreciable burden to the Nation's taxpayers.

Because of the voluntary nature of this system and the very limited role of public financing, it retains the right of individuals and groups of individuals to participate through the political committees of their choice in the financing of Senate elections. Those political committees would play a sharply reduced role, however, as provided for elsewhere in this bill.

Although it was decided to extend the voluntary spending limits to the primary elections, and thus to the full Senate six year election cycle, as a condition for a candidate to receive public benefits, the Committee limited public benefits to the general election period. The Committee also decided to limit the public benefits and spending limits provisios of this bill to Senate candidates, since it viewed the financing of House campaigns as a matter which should be determined initially by the House of Representatives.

EXPENDITURE LIMITS TIED TO PUBLIC BENEFITS

The committee received testimony concerning the spiralling increase in the cost of campaigning for the Senate in recent years. In the last eight years, expenditures by all major party Senate candidates has more than doubled, from $73 million in the 1980 elections to more than $185 million in 1988; and the average cost of winning Senate campaign has increased from $1.2 million in 1980 to $3.7 million in the election of 1988. While the increasing cost of waging a Senate campaign may not, by itself, justify a change in the system, the prolonged and extensive fundraising activity necessary to raise such enormous sums has had an impact on the openness of the system to challengers and the operation of the Senate itself that does justify the concern of the Committee.

The system of spending limits and public benefits that would be established by this bill addresss some of the concerns of the Committee and serves several important public interests. By reducing the costs of elections, such a system would thus lessen the importance of money as a determinant of the outcome of elections. Hence, candidates would be relieved of some of the burdens of fundraising, the system would be opened up to more spiritied competition by candidates who might have been deterred from seeking election because of the exhorbitant costs involved, and public cynicism that elections are "bought and sold" might be sharply lessened.

The system of voluntary spending limits tied to public benefits (and some degree of public financing) in this bill is consistent with the decision of the Supreme Court. In *Buckley* v. *Valeo* the Court held that: "Congress may engage in public financing of election campaigns and may condition acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations." (424 U.S. at 57, n.65 (1976)).

The Committee is mindful of the need for sufficiently high expenditure limits to encourage competitive races and facilitate, rather than restrict, communication by candidates with the electorate, while keeping the limits at a reasonable level in consideration of the need to curb campaign costs. The Committee was also mindful of the need to create a system that would allow a rational candidate to choose to participate in the system without losing the capacity to run a competitive campaign. In order to achieve these objectives the formula adopted is a base amount of $400,000: plus 30 cents times the voting age population of the State up to a voting age population of 4 million, plus 25 cents times the voting age population in excess of 4 million, but not less than $950,000, nor more than $5.5 million.

Higher spending limits will be permitted for candidates running in certain States where a candidate is required, in order to reach the voters in that State through the available media, to broadcast from neighboring states at a cost far in excess of what would be required to reach the State's voters. Such States are defined as those with no more than one transmitter for a commercial VHF television station licensed to operate in that State. In such States, the spending limit is set at $400,000: plus 45 cents times the voting age population up to 4 million, and 40 cents times the voting age population over that figure, but not less than $950,000 nor more than $5.5 million.

The bill introduces another major innovation to the electoral process: that is, the extension of expenditure limits to the primary and runoff elections as a condition to which Senate candidates must agree in order to receive public benefits. Becasue the activities previously associated with Senate campaigns would probably not be curtailed, but merely be shifted to the primary election period, the Committee considered the general election limits alone to be ineffective to achieve the goals of this legislation. In order to carry out the general purposes of the bill, which have been previously enumerated, the Committee concluded it was necessary to extend spending limits to the primary period.

Thus, the committee adopted a primary election limit of 67 percent of the general election spending limit (up to a maximum of $2.75 million) and a runoff limit of 20 percent of the general election spending limit. By defining the primary election period to begin the day after the last general election for the seat in question, the bill effectively limits Senate campaign spending throughout a six year Senate election cycle.

These limits, when taken together with the compliance fund, would provide a six year Senate spending limit for participating candidates of approximately 177 (197 with a runoff election) percent of the general election spending limit. The Committee believes that that amount would provide an adequate level of spending, especially in view of the decreased costs associated with the public benefits, to allow sufficient opportunity for most candidates—whether incumbents, challengers, or open seat contenders—to get their messages out to the voters and to have a reasonable prospect of electoral success.

The following table sets forth the expenditure limitations for the general election, primary election, primary and general election combined, and the runoff (where applicable), as well as the qualifying thresholds for each State. As in the case of expenditure limitations in Presidential elections, S. 137 provides for future automatic increases in these limits, based on cost of living increases, using the year of the first election after this bill's enactment as the base year. These limits are based on 1990 voting age population data.

VOLUNTARY EXPENDITURE LIMITS FOR SENATE ELECTIONS—S. 137[1]

State	VAP (1990)	Election cycle limit	General election limit	Primary election limit	Qualifying threshold
Alabama	3,010,000	$2,176,010	$1,303,000	$873,010	$301,000
Alaska	362,000	1,586,500	950,000	636,500	150,000
Arizona	2,575,000	1,958,075	1,172,500	785,575	257,500
Arkansas	1,756,000	1,586,500	950,000	626,500	175,600
California	21,350,000	8,250,000	5,500,000	2,750,000	650,000
Colorado	2,453,000	1,896,953	1,135,900	761,053	245,300
Connecticut	2,479,000	1,909,979	1,143,700	766,279	247,900
Delaware	504,000	1,586,500	950,000	636,500	150,000
Florida	9,799,000	5,093,083	3,049,750	2,043,333	650,000
Georgia	4,639,000	2,938,783	1,759,750	1,179,033	463,900
Hawaii	825,000	1,586,500	950,000	636,500	150,000
Idaho	710,000	1,586,500	950,000	636,500	150,000
Illinois	8,678,000	4,625,065	2,769,500	1,855,565	650,000
Indiana	4,133,000	2,727,528	1,633,250	1,094,278	413,300
Iowa	2,132,000	1,736,132	1,039,600	696,532	213,200
Kansas	1,854,000	1,596,854	956,200	640,654	185,400
Kentucky	2,760,000	2,050,760	1,228,000	822,760	276,000
Louisiana	3,109,000	2,225,609	1,332,700	892,909	310,900
Maine	917,000	1,586,500	950,000	636,500	150,000
Maryland	3,533,000	2,438,033	1,459,900	978,133	353,300
Massachusetts	4,576,000	2,912,480	1,744,000	1,168,480	457,600
Michigan	6,829,000	3,853,108	2,307,250	1,545,858	650,000
Minnesota	3,224,000	2,283,224	1,367,200	916,024	322,400
Mississippi	1,852,000	1,595,852	955,600	640,252	185,200
Missouri	3,854,000	2,598,854	1,556,200	1,042,654	385,400
Montana	588,000	1,586,500	950,000	636,500	150,000
Nebraska	1,187,000	1,586,500	950,000	636,500	150,000
Nevada	833,000	1,586,500	950,000	636,500	150,000
New Hampshire	828,000	1,586,500	950,000	636,500	150,000
New Jersey	5,903,000	4,945,204	2,961,200	1,984,004	590,300
New Mexico	1,074,000	1,586500	950,000	636,500	150,000
New York	13,600,000	6,680,000	4,000,000	2,680,000	650,000
North Carolina	4,929,000	3,059,858	1,832,350	1,227,608	492,900
North Dakota	481,000	1,586,500	950,000	636,500	150,000
Ohio	8,090,000	4,379,575	2,622,500	1,757,075	650,000
Oklahoma	2,371,000	1,855,871	1,111,300	744,571	237,100
Oregon	2,123,000	1,731,623	1,036,900	694,723	212,300
Pennsylvania	9,199,000	4,842,583	2,899,750	1,942,833	650,000
Rhode Island	767,000	1,586,500	950,000	636,500	150,000
South Carolina	2,558,000	1,949,558	1,167,400	782,158	255,800
South Dakota	519,000	1,586,500	950,000	636,500	150,000
Tennessee	3,685,000	2,514,185	1,505,500	1,008,685	368,500
Texas	12,038,000	6,027,865	3,609,500	2,418,365	650,000
Utah	1,076,000	1,586,500	950,000	636,500	150,000
Vermont	425,000	1,586,500	950,000	636,500	150,000
Virginia	4,615,000	2,928,763	1,753,750	1,175,013	461,500
Washington	3,545,000	2,444,045	1,463,500	980,545	354,500
West Virginia	1,394,000	1,586,500	950,000	636,500	150,000
Wisconsin	3,612,000	2,477,612	1,483,600	994,012	361,200
Wyoming	339,000	1,586,500	950,000	636,500	150,000

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[1] For States with runoff provisions, the limits would be as follows: Alabama—$260,600; Arkansas—$190,000; Florida—$609,950; Georgia—$351,950; Mississippi—$191,120; North Carolina—$366,450; Oklahoma—$222,260; South Carolina—$233,480; South Dakota—$190,000; Texas—$721,900.

A candidate who chooses to participate in the public financing system also must agree to limit to $20,000 the amount he or she may spend or loan the campaign from personal funds, including members of the candidate's immediate family, in the election cycle. This provision is similar to one in the Presidential public financing statute and is intended to be subject to similar interpretation. Members of a candidate's immediate family would be subject to existing contribution limitations, as this provision would not impose any additional or new limits on such family members.

The bill provides for a compliance fund equal to 10 percent of the candidate's general election limit in order to deal with the likelihood of additional legal and accounting services under this system. This provision permits expenditures for such purpose both during and after a general election without such expenditures counting against either such general election spending limit or the next primary election spending limit. It is intended that such fund be used solely for the purpose of paying for legal and accounting services incurred in relation to compliance with the Act. The compliance fund is not indended to serve as a reserve or revolving fund; therefore, once funds have been transferred into the account, they may not be transferred back to the campaign fund or used for any purpose other than compliance. They may only be transferred to another compliance fund established by the candidate if he or she sets up another campaign committee for the same or another office, or to the Treasury. In the event of extraordinary compliance related expenses, a candidate will be permitted to petition the Commission for permission to raise and spend an amount in excess of that fund. Before authorizing any additional funds for compliance, the Commission should first be satisfied that the candidate did not use any portion of the 10 percent compliance fund for any purpose other than compliance. It is expected that the Commission will make any such grant only in the event of extraordinary circumstances related directly to compliance matters and that it will include such safeguards as it deems necessary to assure that such expenditures are made only for the specific purposes authorized by the Commission pursuant to the Act.

ELIGIBILITY FOR BENEFITS

The eligibility for all candidates, whether a major party nominee, a minor party nominee, or an independent candidate, is based on the candidate raising a qualifying threshold of private contributions. The formula to determine the amount of a threshold in any State is 10 cents times the voting age population of the State, but not less than $150,000, nor more than $650,000. All of such funds must be contributed directly to the candidate by individuals (not through any intermediary) in amounts aggregating up to $250 and must be received after January 1 of the year preceding the election. To further assure that such candidates have a base of support from within their State, at least 75 percent of the threshold amount must be raised from contributors from within the candidate's State. The Committee considers such a threshold to be a fair requirement that could be met by a serious candidate with little difficulty, while preventing frivolous candidates from gaining access to public benefits to artificially boost their campaigns without connection to any meaningful degree of public support. Larger aggregate contributions may be received from a contributor, but in such case only the first $250 will be creditable toward the threshold; as with any contribution that does not comply with these threshold requirements, the balance may be used for primary, runoff, or general election purposes or transferred to the compliance fund.

To receive public benefits, a candidate must be opposed in the general election and must certify that he or she has raised the qualifying threshold, and has not exceeded the primary and, where applicable, the runoff spending limits. Also, the candidate must agree to certain administrative requirements, not to exceed the general election spending limits, and not to accept contributions in violation of the Act.

PUBLIC BENEFITS

Two principal benefits are provided to all Senate candidates who meet the eligibility requirements. These are intended to serve both as incentives to participation by candidates and as cost reduction devices for today's ever more expensive campaigns.

The first benefit relates to media costs, allowing only Senate candidates who meet the eligibility criteria to take advantage of the current statutory requirement that broadcasters provide air time to political candidates at the lowest unit rate available during that time period. Candidates who do not adhere to the various limits on expenditures in this bill will no longer be able to receive such treatment. With television costs generally believed to constitute roughly half of the typical Senate campaign budget today—and, in some cases, much more—it is clear that anything which offers the prospect of making these expenses more affordable will help suppress rising election costs, while making participation in the system more attractive to candidates.

The second benefit provided in this bill deals with postage costs, as campaign mailings are often used as less costly alternatives to television advertising and have been shown to be effective means of communication with voters. Eligible candidates would be able to make first-class mailings at one-fourth the rate in effect and third-class mailings at two cents less than the prevailing rate. The total spending on postage at these reduced rates could not exceed five percent of the general election expenditure limit. To offset the revenue loss to the U.S. Postal Service, the bill eliminates the reduced rate for third-class mail currently available to national political party committees. (The bill also provides other benefits of a conditional nature, which are described in other parts of this discussion.)

CAMPAIGN ADVERTISEMENTS

A number of measures referred to the Committee attempted to curb the recent trend toward "negative" media campaigning, by making the candidates more accountable in the minds of the voters for the level and quality of campaign debate. The Committee heard testimony relating the "negative" nature of campaign advertisements to the present high level of voter apathy in recent elections. While the Committee is concerned with this situation, it is also mindful of the constitutional limitations on imposing restrictions in this area. It has attempted to balance these concerns by requiring, as an added condition for eligibility for lowest unit broadcast rates, that candidates be identified or identifiable during at least 50 percent of those advertisements. While it does not seek, thereby, to regulate the content of political advertisements, it does require that candidates using public benefits be accountable for their content and message. The Committee believes that if the identity of the candidate is more clearly established in the mind of the viewer, the campaign will take greater care that the tone of the message be one that does not demean the level of political debate, and, in turn, cause potential discredit to that candidate.

LIFTING OF EXPENDITURE LIMITS AND TRIGGERING OF PUBLIC FUNDS

This bill requires that a candidate who accepts public benefits must agree to the expenditure limits for the entire election cycle. The bill provides incentives to participate in the system by reassuring candidates that they will not be trapped within the spending limits if their non-participating opponents exceed these limits. In the absence of such provisions, this system would be a less attractive option for Senate candidates.

The bill, therefore, sets out certain procedures that require a candidate to file a declaration within one day after qualifying for the general election ballot of whether or not he or she intends to abide by the spending limits of the bill and to notify the Commission each time his or her receipts and expenditures exceed 75 percent of the limit in increments of five percent. Once a candidate exceeds the expenditure limit, the eligible major party opponent would then be entitled to receive a public subsidy equal to two-thirds of the spending limit. If the eligible candidate is a non-major party candidate, he or she would be eligible for payments of up to 50 percent of the limit on a match basis, on contributions from individuals of $250 or less.

These subsidies would be available to be spent without regard to the agreed upon spending limits. The funds would come from the Senate Fund, which this bill establishes within the Presidential Campaign Fund, to be financed by doubling the dollar checkoff currently available on federal tax returns.

Once the non-participant notified the Commission that he or she had exceeded 133⅓% of the limit, any eligible major party opponent would receive an additional payment of one-third the limit. Furthermore, the limits on personal funds and overall campaign spending would then be removed for all participating candidates.

One additional protection for participating candidates is the bill's requirement that non-participating candidates carry a disclaimer on their advertisements indicating that they are not adhering to campaign spending limits.

These provisions of the bill do not infringe on the right of non-participating candidates to raise and spend whatever amount of funds they may deem necessary to compete. They also serve as an incentive to all candidates to abide by the limits and as important protection for those who do so.

OTHER AMENDMENTS TO THE FEDERAL ELECTION CAMPAIGN ACT

INDEPENDENT EXPENDITURES

A second development since the inception of public financing of Presidential elections in 1976 has been the growth and influence of independent expenditures in both Presidential and Congressional elections. In the 1988 elections, some $21.3 million was spent by outside groups and individuals in support or opposition to federal candidates, compared with just over $2.0 million in 1976.

The first objective of the bill with regard to independent expenditures is to assure that such spending is truly independent of the candidate who is supported by such expenditures. To accomplish this the bill sets out certain relationships between a candidate and other persons that by definition constitute coordination, cooperation or concert for the purpose of determining whether expenditures by such person are independent and, therefore, outside the contribution limits of the Act. It also specifies that such relationships, once entered into during a campaign, even if before a person officially becomes a candidate, may not thereafter be abandoned during a campaign for the purpose of making unlimited expenditures in support of that candidate or in opposition to his or her opponent. It is not the purpose of the Committee to restrict in any way the valid and legitimate participation of persons in election campaigns independent of a candidate. It is its purpose to define certain relationships that are inconsistent with a claim of independence from a candidate and to prohibit persons having such a relationship with a candidate from making expenditures outside the contribution limitations and restrictions of the Act. The Committee finds that the relationships specified in the bill raise such a strong presumption of coordination, cooperation or concerted activity between the parties that any expenditures by one of the parties that benefit the candidate cannot reasonably be considered independent and should be subject to the contribution limitations of the Act.

A second objective is to anticipate the possibility that an outside group or individual will make massive independent expenditures against an eligible candidate, or in favor of his or her opponent, leaving his or her hands tied because of the spending limit. Just as such a candidate who accepts public benefits is protected against disproportionate spending by his opponent because of the provisions of conditional public funds and the ultimate removal of spending limits, this bill would provide public funds a matching basis to general election candidates who are opposed or whose opponents are supported by any independent expenditures by the same source that exceed $10,000. The total payments would equal the amount of independent expenditures and thus allow the candidate to respond, without regard to the spending limit. In the primary and runoff phases of the election cycle, such independent expenditures would simply trigger the raising of the spending limit on the candidate opposed (or whose opponent is supported) to the extent that independent expenditures are made, but without involving any public funding. The bill requires reports by persons making independent expenditures to the Commission within 24 hours after such expenditures, aggregating in excess of $10,000, are incurred or obligated, and additional reports for each $5,000 increment. The Commission is then required, during the general election period, to certify payment of a matching amount of public funds to the candidate directly with the Treasury.

This provision of the bill serves First Amendment values by increasing the amount of information available to the electorate. It does not limit the speech of persons making independent expenditures; they remain free to make such expenditures in unlimited amounts. It is similar to other laws that provide financial assistance to the exercise of free speech, such as aid to public broadcasting and other forms of educational media. In *Buckley* v. *Valeo,* the Court stated: "[T]he central purpose of the Speech and Press Clauses was to assure a society in which 'uninhibited, robust, and wide-open' public debate concerning matters of public interest would thrive, for only in such a society can a healthy representative democracy flourish . . . Legislation to enhance these First Amendment values is the rule, not the exception." 424 U.S. 1, 93 n.127 (1976)

A third objective with regard to independent expenditures is to enable voters to more readily understand who is sponsoring media advertisements. Such televised ads by independent groups would be required to run a continuous disclaimer stating who is paying for the ad, in order to reduce voter confusion as to whether such messages may be from candidates themselves. Other forms of advertisement would be required to contain a similar disclaimer, along with a statement that the cost of the advertisement was not subject to any campaign contribution limits. This should promote greater accountability in the political system, by establishing a clearer link between the voter and the candidate, with less interference from outside groups whose names do not appear on the ballot.

AGGREGATE POLITICAL COMMITTEE LIMITS

The committee heard a great deal of testimony from many witnesses concerning the enormous growth in the campaign financing role played by political action committees established by various business, labor, ideological and issue-oriented organizations. The number of such committees grew from 608 in 1974 to 4,268 in 1988. Partly because Presidential general election campaigns of major party candidates have been financed entirely with public funds since 1976, large contributions from PACs have been not a significant factor in those campaigns. However, there has been a significant increase in the growth of such interest group contributions to congressional campaigns, in the amount of money contributed and in the ratio of these contributions to the total contributions received by such candidates.

In 1974, PAC contributions amounted to $12.5 million for all congressional candidates, and, by 1988, they had grown to $147.8 million, an increase of over 1000 percent (or over 500 percent, controlling for inflation). In the 1988 elections, political action committee contributions to Senate candidates alone amounted to more than

$44 million. The average winning Senate candidate received $962,000 from such committees in 1988, compared with $300,000 in 1980. Whereas 17 Senate candidates received more than $1 million from such committees in 1988, no Senate candidate had received this much money in 1980. In the House, the average winning candidate in 1988 received roughly $199,000 from PACs, up from $62,000 in 1980.

The proportion of such contributions to the total receipts by congressional candidates has also increased dramatically, from 15.7 percent in 1974 to 33.8 percent in the last election. With regard to Senate candidates, the ratio of such contributions to overall contributions since 1984 has increased over 20 percent, from 18 percent in 1984 to 24 percent in 1988. In the House, the ratio was even higher: 41 percent of House candidate receipts in 1988 came from PACs. Furthermore, almost half the winners (48 percent) got at least half of their funds from PACs in 1988, compared with only 24 percent at this level in 1980.

The Committee is concerned with the impact of such an increase in reliance on these funds on the campaign finance system. The ability of political committees having similar interests to join together and make large contributions tends to undermine the effectiveness and integrity of the present system of limits on contributions. It believes that the imposition of a ceiling on aggregate contributions from such committees would restore the integrity and effectiveness of the existing and constitutionally sound limits on contributions by any single such political committee, person or other individual to a candidate.

This bill would establish for the first time an aggregate limit on the total contributions a congressional candidate may accept from all nonparty multicandidate political committees or separate segregated funds (popularly known as political action committees or PACs). A candidate for the House of Representatives could accept a maximum of $100,000 in such contributions, with an additional $25,000 if there is opposition both in the primary and general elections and another $25,000 if there is a runoff. Senate candidates would be limited to an amount equal to thirty percent of the primary spending limit for their State, which would range from $190,950 to $825,000, and another thirty percent of their runoff spending limit if there is a runoff. The maximum amounts which could be accepted from PACs in each State are presented in the following table, as they would be in 1990.

AGGREGATE LIMITS ON CONTRIBUTIONS FROM POLITICAL ACTION COMMITTEES

State	Election cycle limit	Runoff election limit
Alabama	$261,903	$78,180
Alaska	190,950	
Arizona	235,673	
Arkansas	190,950	57,000
California	825,000	
Colorado	228,316	
Connecticut	229,884	
Delaware	190,950	
Foridia	613,000	182,985
Georgia	353,710	105,585

AGGREGATE LIMITS ON CONTRIBUTIONS FROM POLITICAL ACTION COMMITTEES—Continued

State	Election cycle limit	Runoff election limit
Hawaii	190,950	
Idaho	190,950	
Illinois	556,670	
Indiana	328,283	
Iowa	208,960	
Kansas	192,196	
Kentucky	246,828	
Louisiana	267,873	
Maine	190,950	
Maryland	293,440	
Massachusetts	350,544	
Michigan	463,757	
Mennesota	274,807	
Mississippi	192,076	57,336
Missouri	312,797	
Montana	190,950	
Nebraska	190,950	
Nevada	190,950	
New Hampshire	190,950	
New Jersey	595,201	
New Mexico	190,950	
New York	804,000	
North Carolina	368,282	109,935
North Dakota	190,950	
Ohio	527,123	
Oklahoma	223,371	66,678
Oregon	208,417	
Pennsylvania	582,850	
Rhode Island	190,950	
South Carolina	234,647	70,044
South Dakota	190,950	57,000
Tennessee	302,606	
Texas	725,510	216,570
Utah	190,950	
Vermont	190,950	
Virginia	352,504	
Washington	294,164	
West Virginia	190,950	
Wisconsin	298,204	
Wyoming	190,950	

In anticipation of a diversion of such special interest money into indirect candidate contributions through party committees, limits will also be placed on the aggregate receipts of such contributions by the national political party committees, the congressional political party committees and by the State political party committees.

BUNDLING AND EARMARKING OF CONTRIBUTIONS

The Committee was also concerned with the practice whereby a political committee solicits a large number of contributions from committee members for candidates, and then delivers, or arranges for the delivery of, a large number of such contributions to candidates, usually in amounts far in excess of the contribution limit applicable to such a committee. A related practice, that of a committee receiving contributions from contributors, earmarked for certain candidates, but made payable to the committee, also raises concern, especially with regard to determining the intent of the contributor.

In some circumstances these practices may amount to an evasion of the existing statutory contribution limits. Under existing law, an intermediary must count earmarked or bundled contributions against its own contribution limits if it exercises any direction or control over the making of the contribution. Some political committees appear to ignore this requirement. In any case, such practices have the effect of undermining the present sound system of contribution limitations. This bill intends to clarify this situation.

The bill provides that a political action committee, party committee, connected organization, lobbying organization, or their officers and employees cannot serve as a conduit or intermediary for contributions in excess of their own contribution limit to candidates by soliciting contributions made out to the candidate and delivering, or arranging for the delivery of, such contributions to the candidate. It also prohibits any person or group from receiving "earmarked" contributions, that is, of receiving checks made payable to the committee or person with instructions to make contributions to specified candidates in the name of the original contributor, to the extent that such amounts exceed the intermediary's contribution limits. This restriction would not appy to joint fundraising activities by two or more political party committees, candidates, or combination thereof.

These provisions would not place any new or additional restrictions on the right of any committee or person to communicate with a person and encourage such person to support or to contribute to a candidate. They do, however, require, to the extent such contributions exceed the contribution limitation applicable to such committee or person, that the contributor make the contribution payable to the candidate and send it directly to the candidate.

SOFT MONEY

The Committee was concerned with the entire area of unreported or unregulated activities that influence federal elections, but are now exempt from either the reporting or regulation provisions of the Act. On re-examining such activities, it was decided that many of those activities directly affect federal elections and, therefore, should be reported, and in some cases restricted or prohibited. These added disclosure provisions are designed to address some of the "soft money" problems referred to by numerous witnesses at the hearings.

One area of so-called "soft money" activity in which the Committee concludes that reporting is necessary is that of committees or organizations engaging in non-federal activities and which keep federal and non-federal accounts, and which conduct voter registration and get-out-the-vote drives and general political advertising that may influence federal elections. A second area of new disclosure requirements would be for any contribution or expenditure in excess of $200 by a state or local party committee on such materials as slate cards and sample ballots, or by any candidate's authorized committee for solicitation of contributions. Also added to disclosure requirements would be any contribution in excess of $200 to the building fund of a national or state party committee. None of these items or activities are required to be disclosed under current law.

The committee believes that the current allowance for unlimited spending by state and local party committees on certain grassroots activities has turned into a serious loophole which undermines the limitations on spending by Presidential candidates accepting public funding in the general election. Accordingly, the bill removes the current exemption from the definition of contribution and expenditure of the costs of get-out-the-drive and registration drives on behalf of the presidential and vice presidential nominees and of grassroots materials used in voulunteer activities for party nominees. In place of this unlimited spending ability, the bill imposes a limit of four cents times the voting age population of the State on all spending by state and local party committees in connection with the general election campaign of its presidential candidate.

The bill imposes two additional restrictions on soft money practices. First, it prohibits publicly funded presidential candidates or their agents from raising or spending any funds in connection with a federal, state, or local election, including get-out-the-vote and registration drives and general advertising, unless such funds are raised in accordance with Federal law. This should eliminate the kind of massive soft money fundraising operations which Presidential campaigns have conducted in recent elections. Secondly, the bill prohibits any party committee from allocating any funds to a non-federal account not subject to the requirements of federal law, if the funds are raised or spent in connection with a federal election. The bill further defines "in connection with a federal election" to include voter registration and get-out-the-vote drives, generic advertising, and campaign materials which include mention of a federal candidate. Hence, any party activity of this nature would only be permissible if it were funded with money subject to federal law's limitations and requirements.

REPORTING AND DISCLOSURE

The Committee found that certain reporting requirements should be revised in the interest of better disclosure of relevant information in reports. One relates to a change enacted in the 1980 amendments that permitted the use of an individual's mailing address rather than the individual's permanent residence. Experience since the change indicates that the latter identification is preferable for purposes of more accurately identifying an individual.

Another practice relates to a candidate being permitted, in reporting the required information with regard to an expenditure, to limit his report to identify the person retained to provide services or to do consulting work, even though that person retained services of others, or purchased materials, for the candidate, in amounts that exceed the $200 expenditure reporting threshold. Such a reporting practice is clearly contrary to the full and timely disclosure purposes of the reporting provisions of the Act. It is the purpose of the provision in this bill to require that information about any expenditure in excess of the reporting threshold made to a person who provides services or materials for the candidate be reported by the candidate, without regard as to whether payment was made directly to such person by the candidate or by another party for the candidate.

The bill also changes the nature of reports filed by candidates and authorized committees, so that the information they include be aggregated on an election cycle, rather than calendar year, basis. This should make the reports conform to the way in which we actually think of and conduct our elections today, rather than attempt to fit them into the artificial boundaries imposed by the calendar.

FEDERAL ELECTION COMMISSION

One of the frequent complaints heard by the Committee regards the insufficient ability of the Federal Election Commission, as currently constituted, to enforce the law in a timely and effective fashion. The Committee believes that part of the problem stems from partisan deadlock on a Commission which is made up of an equal number of individuals from each of the major parties. The bill addresses this issue by adding a seventh member to the Commission, with each party having a four person majority in alternating years. Also, the term of members would be lengthened from six to seven years. This change should allow more effective action to be taken by the FEC, with the protection that no party will be able to hold a monopoly on Commission decisions for an indefinite period.

OTHER AMENDMENTS TO EXISTING LAW

Two other restrictions are imposed by this bill, which address practices in recent years which the Committee believes have undermined the intent of the Act. The first would prohibit the practice of candidates loaning money to their campaigns, only to have the loans repaid with campaign contributions, often raised after electoral victory by the candidate. The bill thus prohibits any campaign contributions from being used to repay such candidate loans. The second restriction concerns the extension of credit by vendors of advertising services to campaigns. Large debts to vendors which remain unpaid for long periods of times may be construed as tantamount to contributions, which either because of their source—such as corporations—or their amount—would be prohibited under federal law. The bill provides that such credit which is extended to Senate campaigns in amounts of more than $1,000 or for a time period of more than 60 days will be considered to be contributions, subject to the relevant restrictions and prohibitions of the Act.

Regulatory Impact of S. 137

Pursuant to rule XXVI, paragraph 11(b) of the Standing Rules of the Senate, the Committee received the following information from the Federal Election Commission as to the regulatory impact of S. 137, as reported by the Committee:

Question. An estimate of the number of individuals and businesses to be regulated by the Commission, and a determination of the groups and classes of such individuals and businesses.

Answer. The Commission regulates seven categories of persons and political committees: Presidential candidates and committees;

candidates and committees engaged in races for House and Senate seats; party-related committees; non-party related political committees; individuals or committees making independent expenditures; delegates and delegate committees; and persons making expenditures for communication costs. The table which follows indicates the number of filers in each category, the number of reports and statements filed by each, and the gross receipts and expenditures for the period covering calendar year 1989.

SUMMARY OF DISCLOSURE FILES

	Total filers existing in 1989	Filers terminated as of Dec. 31, 1989	Continuing filers as of Dec. 31, 1989	Number of reports and statements in 1989	Gross receipts in 1989	Gross expenditures in 1989
Presidential:						
Candidates	252					
Committees	282	10	272	434	$7,140,220	$11,421,683
Senate:						
Candidates	459					
Committees	484	32	453	770	85,254,826	46,076,747
House:						
Candidates	2,262					
Committees	2,367	209	2,158	3,441	86,912,532	67,539,576
Party committees	461	49	412	1,038	233,519,103	227,563,898
Delegate committees	83	1	82	1	0	0
Nonparty committees	4,407	229	4,178	14,094	177,747,034	135,895,852
Labor committees	361	12	349	1,310	44,863,269	31,935,933
Corporate committees	1,878	82	1,796	7,183	51,931,639	40,004,916
Membership, trade and other committees	2,168	135	2,033	5,601	80,952,126	63,955,003
Communication cost filers	176	NA	NA	27	NA	89,312
Independent expenditures by persons other than political committees	133	NA	NA	18	NA	125,218

Question. The Commission's opinion as to the economic impact of such regulations on the individuals, consumers, and businesses affected.

Answer. The bill is so specific in its requirements that the major economic impact on affected individuals and organizations is directly imposed by the bill, not the implementing regulations.

Question. The Commission's opinion on the impact on the personal privacy of the individuals affected.

Answer. One purpose of the Federal Election Campaign Act is to provide for the disclosure of contributions and expenditures made in campaigns for federal office, which obviously has some impact on privacy. While disclosure is a primary goal of the Act, it also prohibits the sale or use of information on individuals for commercial purposes, which also has the effect of limiting the privacy impact to some extent. Congress believed that whatever impact on privacy resulted was warranted in order to promote the policy of disclosure. The recordkeeping and reporting proposals contained in S. 137 are consistent with the disclosure provisions now found in the Act. Thus, any impact on privacy is due to the bill rather than the implementing regulations.

Question. A determination of the amount of additional paperwork that will result from regulations to be promulgated by the Commission under the terms of the bill. This determination may

include, but need not be limited to, estimates of the amount of time and financial cost required of affected parties, showing whether the effects of the bill could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill.

Answer. Several provisions of S. 137 provide for additional reporting of activity by campaigns and others, along with certifications and notifications to be made by the Commission. Because many of these are triggered by levels of activity, it is difficult to accurately project the additional workload for either the campaigns or the Commission. Reports by candidates not eligible for subsidy who exceed 75% of the limit in activity, for example, appear to be much more extenisve in scope from the current 24 hour notification of a contribution which is a simple statement declaring that a particular contribution has been received. The Commission, after receiving such reports, and within 24 hours of such receipt, is requried to notify each participating candidate in the election involved about the reports.

The Commission is also charged with verifying or instituting a mechanism for verifying when one's opponent may have expended beyond the limit to trigger entitlements to public funds. In addition to these new duties assigned to the FEC, campaigns could be required to implement day to day bookkeeping and recordkeeping of financial activity. Also, public financing generally leads to a more detailed regulatory scheme, which, combined with mandatory audits, could have enforcement ramifications, both of which can be a considerable expense to the FEC, as well as to campaign committees. Another example where additinal reporting may be required is the provision seeking reporting of activities by non-federal committees that may influence federal elections.

As in the past, the Commission will place a high priority on the reduction of unnecessary paperwork in promulgating regulations under the bill. This has been a major goal of the Commission's rulemaking process, to avoid burdensome requirements for the regulated community.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S.137.
2. Bill title: Senatorial Election Campaign Act of 1989.
3. Bill status: As ordered reported by the Senate Committee on Rules and Administration, March 8, 1990.
4. Bill purpose: The bill would establish a system of campaign spending limits and partial federal financing for Senate candidates in general elections. To become entitled to receive federal campaign funds, a Senate candidate would have to meet several eligibility requirements, including raising a threshold level of contributsion from individuals and agreeing not to exceed spending

limits based on state voting population. The Federal Election Commission (FEC) would be required to certify to the Department of the Treasury the eligibility of each candidate who applies for federal funds, and the Treasury would then make the payment from the Presidential Election Campaign Fund. These additional payments from the fund would be financed by doubling the campaign check-off on individual income tax return forms, thus increasing the amount of tax revenues channeled into the fund (without changing total tax revenues).

The FEC would be required to audit a sample of the candidates and to report to the Senate on its activities after each election. The FEC would also be authorized to participate in judicial proceedings regarding federal campaign financing. The bill authorizes the appropriation to the FEC of such sums as may be necessary to carry out additional functions involved with Senate campaigns.

S. 137 also would establish reporting requirements for Senate candidates and would create reduced postal rates for eligible candidates.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Payments to entitled Senate candidates:					
Estimated budget authority	29	32	30	30	29
Estimated outlays		30		35	
Additional costs of the Federal Election Commission:					
Estimated authorization level	1	1	1	1	1
Estimated outlays	1	1	1	1	1
Bill total:					
Estimated budget authority/authorization level	30	33	31	31	30
Estimated outlays	1	31	1	36	1

The costs of this bill fall within budget function 800.

Basis of Estimate

If this bill were enacted, the 1992 Senate general election would be the first to be covered by partial public financing. Because the bill would double the campaign check-off on income tax returns, CBO assumes that the amount earmarked for the campaign fund would double, resulting in an additional $29 million to $32 million of budget authority available to the fund each year, beginning in 1991.

The amount of federal funds paid to candidates would depend largely on the extent of candidates' participation in the system. If both candidates in each election agree to be bound by the spending limit or if both exceed it, then neither candidate would receive federal funding. A candidate would be entitled to federal funding only if the candidate agrees to spend less than the limit and the opponent exceeds it. Once the opponent spends more than the limit, the entitled candidate would receive two-thirds of the amount of the spending limit. If the opponent spends 33 percent more than the limit, the entitled candidate would receive an additional one-third of the amount of the spending limit.

Therefore, the maximum that the federal government would have to pay in an election year is the amouint of the spending limit for all states holding a Senate election. For the 1992 and 1994 elections, this amount would be about $60 million and $70 million, respectively. However, it is not likely that the candidates in all states would be entitled to federal funding. If S. 137 were in effect for the 1988 Senate elections, none of the candidates in 15 of the 33 races would have been entitled to federal funding, either because both candidates exceeded the limit (14 races) or both candidates remained under the limit (one race). In the other 18 campaigns, one of the candidates would have become entitled by spending less than the limit while the opponent spent more than the limit.

Assuming for the 1992 and 1994 elections that a candidate in about half of the races would be entitled to federal funding, then outlays might amount to roughly half of the maximum possible spending. The actual outlays would depend on the population size of each state with an entitled candidate, but we cannot estimate which states would have an entitled candidate and which states would not. CBO's estimates do not include payments for minor party candidates or matching payments for independent expenditure activity because, based on recent historical experience, it is unlikely that candidates would qualify or that the amount of payments would be significant.

The outlay estimates also assume that all payments to federal candidates occur in the fiscal year that ends in September before the general election. Eligible candidates would have to apply within seven days after qualifying for the general election (most likely after the primary election), and the Treasury would be required to make prompt payment to candidates after the 48-hour certification period for the FEC has elapsed.

Based on information from the FEC regarding the additional functions the bill would require of it, CBO estimates that enactment of S. 137 would cost the FEC an additional $1 million annually for administrative expenses. The provision of S. 137 that would mandate lower postal rates for eligible candidates would not affect net federal spending. The Postal Service, which is required by law to break even, would have to raise overall rates to offset the lost volume.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: James Hearn.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

SECTION BY SECTION ANALYSIS

Section 1.—This Act may be cited as the Senatorial Election Campaign Act of 1989.

Section 2.—Adds new title to the Federal Election Campaign Act of 1971, entitled—

TITLE V—SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE GENERAL ELECTION CAMPAIGNS

Definitions

Section 501 defines the terms "authorized committee", "candidate", "election cycle", "election candidate", "general election", "general election period", "immediate family", "major party", "primary election", "primary election period", "runoff election", "runoff election period", "Senate Fund", "voting age population", and incorporates by reference all other definitions in Section 301 of the Federal Election Campaign Act (2 U.S.C. 431).

Eligibility

Section 502(a) provides that a candidate will be eligible for payments if the candidate, within 7 days after qualifying for the general election ballot, certifies to the Commission that he or she has received contributions from individuals only of up to $250 from any one individual; said contributions were received after January 1 of the calendar year immediately preceding the year of the election; said contributions total an amount equal to 10 cents times the voting age population of the state but not less than $150,000 nor more than $650,000; that at least 75% of said contributions were received from individuals who reside in such candidate's state; that he or she has not spent more than the lesser of $2,750,000 or 67% of the applicable general election spending limit in his or her primary election, nor more than 20% of said generl election spending limit in his or her runoff election; and that at least one other candidate has qualified for the same general election ballot under the laws of the State.

The candidate must also notify the Commission of his or her intention to make use of the benefits of the Act and agree to abide by expenditure limits, to accept no contributions in violation of the limitations of the act, to accept no contribution for the general election not necessary to defray expenditures and which in the aggregate exceeds general election spending limits, to deposit all payments received under this Act in an account insured by the FDIC, to make all such expenditures therefrom by check or similar means of payment, to furnish records, evidence of contributions, and other appropriate information to Commission, and to cooperate with any Commission audit or examination.

Section 502(b) provides that in determining whether a candidate has accepted sufficient contributions to estiblish eligibility, a contribution may not be counted unless (1) it is a gift of money made by a written instrument that identifies the contributor, (2) it is not made through or by an intermediary or party other than the contributor, (3) it is made by an individual and does not exceed an aggregate of $250, and (4) it was received after January 1 of the calendar year immediately preceding the year of the election and before the date of the general election. The above conditions would also apply to contributions for matching payments in the case of non-major party candidates.

Section 502(c) provides for indexing of the threshold amount and sets a base year of the calendar year of the first election after enactment of the bill.

Section 502(d) requires that to be eligible a candidate must notify the FEC on the day of filing as a candidate for the primary election of his or her intention to comply with limitations on spending in the primary, runoff, and general elections.

Limitations on expenditures

Section 503 sets a limitation on general election expenditures by candidates for the Senate entitled to benefits hereunder. Said candidates shall not spend for such general election more than $400,000, plus in a State having a voting age population up to 4 million, plus 40 cents times the voting age population of 4 million or less, 30 cents times the voting age population, plus in a State having a voting age population in excess of 4 million, 25 cents times the voting age population by which it exceeds 4 million, but not less than $950,000 nor more than $5.5 million. (In states with only one commercial VHF television station, the limit would be raised to $400,000, plus 45 cents times the voting age population up to 4 million, plus 40 cents times the voting age population over 4 million, or $950,000, whichever is greater, but no more than $5.5 million.) It also sets spending limits for eligible candidates for the primary election of 67% (but not more than $2.75 million), and for the runoff election of 20% of the general election limit. It provides that these limits shall be subject to annual adjustment based on the price index for the year of the election. It also limits to $20,000 the amount a candidate may spend or loan the campaign from his or her own money, or that of the candidate's immediate family, during the election cycle.

Section 503 would also permit participating candidates to establish with private contributions, subject to all limitations, prohibitions and reporting requirements of the Act, a compliance fund of up to 10 percent above the general election spending limit. A candidate with such expenses in excess of the limit would be permitted to petition the Commission to increase the amount of such fund. The fund, upon termination, would be either donated to the Treasury or transferred to a subsequent compliance fund of the candidate.

Section 503 would, where independent expenditures for or against a participating candidate exceed $10,000, increase the primary and runoff election spending limits by the amount of independent expenditures against a candidate or for his opponent during the primary or runoff, as applicable.

Entitlement of eligible candidates to benefits

Section 504(a)(1) provides that eligible candidates are entitled to receive: lowest unit broadcast rates under Sec. 315(b)(3) of the Communications Act of 1934; lower mailing rates under 39 U.S.C. 3629; and payments under the Act equal to the total independent expenditures against that candidate or for his opponent during the general election.

Section 504(a)(2) provides that if an opponent is not eligible and raises, spends or obligates to spend an amount in excess of the spending limit, the eligible candidate—if major party—is entitled to a payment under the Act equal to two-thirds of the applicable limit, once the opponent exceeds it, and an additional payment equal to one-third of the limit, once the opponent exceeds it by another one-third. A non-major party eligible candidate would be entitled to receive matching payments of up to one-half the spending limit. Only contributions from individuals of up to $250 (and not made through intermediaries) could be matched, and money raised to meet the eligibility threshold could not be matched.

Section 504(b) permits an eligible candidate who receives such additional payments to spend such funds without regard to the spending limit.

Section 504(c) removes the limits on personal funds and overall spending entirely for an eligible candidate when an opponent is not eligible and spends more than 133⅓% of the spending limit. An eligible candidate may raise more than the spending limit if either any major party opponent is not eligible or if any candidate spends more than 75% of the spending limit.

Section 504(d) requires that such benefits be used to defray expenditures incurred with respect to the general election and that they not be used to repay any loan except to the extent that the proceeds of such loan were used to further the general election of the candidate, or to make any payments to the candidate or a member of the candidate's immediate family, or to make any expenditure other than to further the general election of such candidate, or to make an expenditure in violation of any law.

Certification by Commission

Section 505 requires the Commission to certify a candidate's eligibility for payment of funds within 48 hours of filing of a candidate's request. Determinations made by the Commission regarding certifications are final and conclusive, except to the extent they are subject to examination and audit, and judicial review.

Establishment of Fund; Payments to Eligible Candidates

Section 506(a) creates a Senate Fund in the Presidential Election Campaign Fund to contain those funds available from the tax checkoff after an amount more than adequate to finance expected costs of Presidential general elections, conventions and primaries has been set aside. Monies in the Senate Fund which are deemed to exceed 110% of anticipated costs in the next Senate election shall be returned to the general treasury.

Section 506(b) authorizes payment of funds by the Secretary of the Treasury upon certification by the Commission.

Section 506(c) authorizes the Secretary of the Treasury to reduce amounts available for payment by a percentage formula should insufficient funds be available for full payment and requires that the Secretary notify the Commission and the candidates of the need to prorate payments. Candidates are liable for repayment of funds which are later deemed to have been in excess of available funds.

Examination and Audits; Repayments

Section 507(a) requires the Commission to audit after each general election on a random basis 10% of all major party eligible candidates and 10% of all other eligible candidates, all candidates after any special election, and authorizes audits of any candidate for cause.

Sections 507(b) through (e) provide that if a candidate received more funds than he or she was entitled to, he or she must repay the amount of the excess; if funds were not used in accordance with the title, he or she must repay an amount equal to 200% of the amount of such funds; and if the candidate exceeded the spending limit by 5 percent or less, he or she must repay the amount by which the limit was exceeded, and if by more than 5 percent of the limit, he or she must repay an amount three times the amount of the excess expenditure.

Section 507(f) allows a candidate to retain such funds for 60 days after an election for repayment of general election expenses and requires repayment of unexpended amounts remaining at the end of the 60 day period.

Section 507(g) imposes a 3 year limit on Commission notifications of repayments under this title.

Section 507(h) provides that repayments be deposited in the Senate Fund.

Criminal Penalties

Section 507A would provide for criminal penalties in the case of the knowing and willful acceptance of excess funds (fine up to $25,000 or up to 5 years imprisonment, or both), spending of personal funds in excess of the personal spending limit (fine up to $25,000 or up to 5 years imprisonment, or both), misuse of such funds (fine up to $10,000 or up to 5 years imprisonment, or both), provision of false, fictitious or fraudulent information to the Commission (fine up to $10,000 or up to 5 years imprisonment, or both), or acceptance of a kickback (fine up to $10,000 or up to 5 years imprisonment, or both, and payment to the Fund of 125% of amount of illegal kickback).

Judicial Proceedings

Sections 508 and 509 give the Commission power to initiate civil proceedings to seek recovery of amounts owed by candidates and tracks existing judicial review provisions of 26 U.S.C. 9041 and 9042. An expedited review of Commission determinations under the Act is provided.

Reports to Congress; Regulations

Section 510 requires the Commission to submit reports after each election to Congress containing expenditures of candidates, the amount of public funds paid each candidate, the amounts repaid, and the balance in the Presidential and Senate campaign funds. Such reports are to be printed as Senate documents. The Commission is also authorized to prescribe rules and regulations (after submitting its proposals to the Senate for 30 days), to conduct examinations and investigations, and to require the keeping and submission of records and information it deems necessary to carry out its duties.

Authorization of Appropriations and Other Funding Matters

Section 511 authorizes the appropriation of such sums as may be necessary to the Commission to carry out its functions under this title.

Senate Fund

Section 3 amends Section 6096(a) of the Internal Revenue Code of 1986 by increasing the amount of the checkoff from $1 to $2 for an individual and from $2 to $4 for joint returns.

Broadcast Rates

Section 4 amends Section 315(b)(1) of the Communications Act of 1934 to state that for Senate candidates during the general election period, availability of "lowest unit rate" for televised broadcasts is limited to those candidates eligible for public benefits under this title and who are identified or identifiable during 50% of each advertisement.

Reporting Requirements

Section 5 amends section 434 of 2 U.S.C. It requires all Senate candidates to file with the Commission within a day of qualifying for the general election ballot (or within 7 days of winning a primary held after Sept. 1) a declaration of whether the candidate intends to make expenditures in excess of the limits and permits candidates 7 days to change that declaration. It also provides for additional reports by Senate candidates who are not eligible for benefits, the first within 24 hours after qualifying for the general election ballot or within 24 hours after such candidate raises or spends or obligates to spend more than 75% of the spending limit, whichever is later, and an additional report within 24 hours of each time such candidate raises or spends or obligates to spend an additional 5% of the limit, until 133⅓% of the limit is reached. The Commission is required to notify the eligible candidate within 24 hours of the filing of such reports by an opponent and shall certify eligibility for payments once the opponent has exceeded the spending limit. The Commission is authorized to make its own findings regarding the contributions or expenditures of candidates who are not eligible and give eligible candidates notice when such limits are exceeded.

Section 5 also requires that persons making independent expenditures report such spending within 24 hours after certain actions are taken to incur such expenditures in excess of $10,000 with regard to any one candidate and after each $5,000 expenditure increment. Such reports must be filed with the Commission and the Secretary of State of the state of the election involved and identify the affected candidate. The Commission is required to notify the candidate involved and to certify eligibility for payments under the Act. The Commission is authorized to make its own findings regarding independent expenditures and to give the affected candidate notice of its findings.

Section 5 provides that when two or more person coordinate independent expenditures, notice is required by each when their combined spending exceeds the $10,000 threshold. It also specifies what activities and relationships constitute spending in coordination, consultation or concert.

Section 5 provides for reports by any political committee active in non-federal elections and which maintains separate accounts requiring an allocation of federal and non-federal financial activities, on any financial activity which may influence a federal election. It also specifies certain activities which may influence a federal election.

Section 5 requires candidates to declare within 15 days of qualifying for the primary ballot whether more than $250,000 of personal or immediate family funds will be spent or loaned to the campaign. It requires a report to the Commission within 24 hours after this figure is exceeded and each time therafter when it is exceeded by $10,000. The Commission must notify eligible candidates of these reports.

Section 5 requires that contributions and expenditures over $200 to or by national or state party committees for building funds and state or local party committees for certain grassroots activities which may influence federal elections must be reported and disclosed under the Act. It authorizes the Commission to make judgements on what constitutes efforts to influence federal elections, such as the representations made in soliciting funds for such purposes, identification of federal candidates in general advertising, and the proximity of advertising to specific elections.

Section 5 repeats the definition of election cycle that appears in Title V definitions.

Section 5 modifies various sections of section 434 to the effect that reports by candidates and authorized committees aggregate on an election cycle, rather than calendar year, basis.

Section 5 would change the definition of identification of an individual to include his or her permanent residence address instead of mailing address.

Section 5 requires that in reporting expenditures a committee must report the relevant information about a secondary payee in a situation where a primary payee providing personal or consulting services pays for goods and services for the candidate in excess of the reporting threshold of $200.

Limits on Contributions by Multicandidate Political Committees and Separate Segregated Funds

Section 6(a) amends Section 441a(a)(2) of 2 U.S.C. by limiting the amount of contributions a candidate for the House of Representatives may receive from multicandidate committees and separate segregated funds to $100,000 for the general and primary elections ($125,000 if at least two candidates qualify for the primary and general election ballots), and an additional $25,000 in case of a runoff election. Senate candidates are limited to an amount equal to 30% of the primary election spending limit for the state and an additional 30% of the runoff spending limit provided for runoff elections. The amount any state committee may receive for federal election purposes from such sources would be limited to the geater of 2 cents time the state's voting age population or $25,000 in a two year election cycle.

Section 6(b) repeats from the Title V the formula for the primary and runoff election spending limits for referencing purposes and provides for indexing of both limits.

Section 6(c) limits the amount of contributions a Congressional campaign committee may receive during a two year election cycle from multicandidate committees and separate segregated funds to

30% of the amount that may be spent on behalf of Senate or House candidates under Section 441a(d) of 2 U.S.C. It limits the amount either national party committee may receive during the two year election cycle from such sources to 2 cents multiplied by the voting age population of the United States. The limitations on national and state party coordinated expenditures shall apply to general public political advertising which identifies a candidate for federal office but not to direct mail fundraising communications that only make incidental reference to one or more federal candidates.

Intermediary or Conduit

Section 7 would limit the earmarking and bundling of any contributions made payable to a conduit, or by political action committees, political party committees, connected organizations, and lobby organizations and their officers or employees, regardless of to whom the contribution is made payable, to the amount of the contribution limit of the individual or committee acting as conduit. This provision would not apply to a joint fundraising activity by two or more candidates, party committees, or combination thereof.

Independent Expenditures

Section 8 amends the definition of "independent expenditure" by specifying certain relationships and activities between candidates and committees or other persons that constitute coordination, consultation or concerted activity between the parties and do not constitute a relationship of sufficient independence to permit unlimited spending for or against a candidate. It also provides that once any such relationship or activity is established or undertaken, even if before a person becomes a candidate, subsequent spending will continue to be considered to be in coordination, cooperation or in concert with such candidate.

Independent Expenditure Broadcast Disclosure

Section 9 requires that any televised political advertisement sponsored by independent expenditures contain throughout the duration of the advertisement a clearly readable statement identifying the person paying for the advertisement and, if a committee, the name of any affiliated organization. Similar information is required for other forms of advertisements together with a statement that the cost of such statement was not subject to any campagin contribution limits.

Personal Loans

Section 10 prohibits the use of contributions to repay any loan by a candidate to himself or his campaign committee.

Referral to the Department of Justice

Section 11 would make referral to Justice by the Commission mandatory in case of criminal matters.

Extension of Credit

Section 12 defines contribution to include an extension of credit to a Senate candidate and his authorized committees for more than 60 days in an amount of more than $1,000.

Preferential Rates for Mail

Section 13 adds to 39 U.S.C., Section 3629, providing postal rates to eligible Senate candidates for first-class matter of one-fourth the first-class rate, and for third-class matter, of two cents less than the reduced first-class rate. The total amount allowed to be spent at these reduced rates is 5% of the general election spending limit.

Disclosure

Section 14 amends Section 441d of 2 U.S.C. to require a disclaimer on all advertisements by Senate candidates not eligible for benefits, stating that such candidate has not agreed to abide by the spending limits under the Act.

Excess Campaign Funds

Section 15 amends Section 439a of 2 U.S.C. to strike the provision allowing Members of Congress in office on January 8, 1980 to convert excess campaign funds to personal use or to official accounts.

Political Committee Postal Rates

Section 16 repeals Section 3626 of 39 U.S.C., which provides for certain political party committees to send third-class mail at the same rate allowed nonprofit organizations.

Certification by Presidential Candidates Accepting Public Funds Concerning Compliance With Fundraising and Expenditure Limitations

Section 17 amends Section 9006 of 26 U.S.C. to prohibit Presidential candidates receiving public funds during the primary or general election period from raising or spending any funds in connection with a Federal, State or local election, including for get-out-the-vote, registration, and generic campaign activities, unless such funds are raised and spent in accordance with the Act. This prohibition covers to agents of the candidate as well.

Soft Money

Section 18(a) adds a new subsection 3 to Section 441a(d) of 2 U.S.C., placing a limit of 4 cents times the state's voting age population on the amount a state party committee and its subordinates may spend in connection with its party's Presidential candidate during the general election.

Section 18(b) amends Section 431 of 2 U.S.C. by repealing clauses (8)(B)(x), (8)(B)(xii), (9)(B)(viii), and (9)(B)(ix), which exempt from the definition of contribution and expenditure payments by state or local party committees on certain grassroots activities and materials, and get-out-the-vote and registration drives which benefit their parties' nominees for President and Vice President.

Section 18(c) amends the Act by requiring that all amounts raised and spent by national, state and local party committees in connection with a federal election be subject to the provisions of the Act, and prohibits such funds from being allocated to a non-federal account which is not subject to the Act. It includes in the definition of "in connection with a federal election": get-out-the-vote and registration drives, generic campaign activities, and campaign materials which identify a federal candidate.

Federal Election Commission Reform

Section 19 amends Section 437e(a)(1) to add a seventh member to the Federal Election Commission, allowing no more than four members affiliated with the same political party and no party having a majority of members on the Commission for two succeeding years. It also increases the term of members to seven years, with some shorter terms in the interim, and provides for appointment of a single member each year.

Severability

Section 20 provides that other provisions of the Act shall survive should any one of them be held invalid.

Effective Date

Section 21 makes the Act effective for any election held in 1992 and thereafter, except provisions pertaining to the tax checkoff, bundling, the definition of independent expenditures and independent expenditure broadcast disclosure, all of which become effective upon enactment.

COMMITTEE ROLLCALL VOTE

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of the rollcall vote in the Committee on Rules and Administration during its consideration of S. 137 is as follows: On a motion by Senator Pell to report the bill favorably and without amendment: Approved: 7 Yeas; 3 Nays.

YEAS (7)	NAYS (3)
Mr. Ford	Mr. Stevens
Mr. Pell	Mr. Hatfield
Mr. Byrd	Mr. McConnell
Mr. Inouye	
Mr. Gore	
Mr. Moynihan	
Mr. Adams	

Chairman Ford had the proxies of Senator DeConcini and Senator Dodd, who asked to be recorded in support of the motion. Ranking Member Stevens had the proxies of Senator McClure, Senator Helms, Senator Dole and Senator Garn, who asked to be recorded in the negative.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 137, as reported by the Committee on Rules and Administration, are shown as follows (existing law proposed to be omitted is enclosed in **[**bold brackets**]**, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

FEDERAL ELECTION CAMPAIGN ACT OF 1971

[NOTE. Changes in the Federal Election Campaign Act of 1971 are shown as that Act is reflected in chapter 14 of title 2, United States Code, for convenience of reference.]

CHAPTER 14—FEDERAL ELECTION CAMPAIGNS

§ 431. Definitions

When used in this Act:

* * * * * * *

(4) The term "political committee" means—

(A) any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year; or

(B) any separate segregated fund established under the provisions of section 441b(b) of this title; or

(C) any local committee of a political party which receives contributions aggregating in excess of $5,000 during a calendar year, or makes payments exempted from the definition of contribution or expenditure as defined in paragraphs (8) and (9) of this section aggregating in excess of $5,000 during a calendar year, or makes contributions aggregating in excess of $1,000 during a calendar year or makes expenditures aggregating in excess of $1,000 during a calendar year.

For purposes of this section, the receipt of contributions or the making of, or obligating to make expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office, as defined in paragraph (2) of this section, or of any political party, in general public political advertising; and the proximity to any primary, run-off, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.

* * * * * * *

(8)(A) The term "contribution" includes—

(i) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office; **[**or**]**

(ii) the payment by any person of compensation for the personal services of another person which are rendered to a political committee without charge for any purpose**[**.**]***; or*

(iii) with respect to a candidate for the office of United States Senator and his authorized political committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, by direct mail (including direct mail fund solicitations) or other similar types of general public political advertising, if such extension of credit is—

(I) in an amount of more than $1,000; and

(II) for a period of more than 60 days after the date on which such goods or services are furnished, which date in the case of advertising by direct mail (including a direct mail solicitation) shall be the date of the mailing.

(B) The term "contribution" does not include—

(i) the value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee;

(ii) the use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes, and the cost of invitations, food, and beverages, voluntarily provided by an individual to any candidate or any political committee of a political party in rendering voluntary personal services on the individual's residential premises or in the church or community room for candidate-related or political party-related activities, to the extent that the cumulative value of such invitations, food, and beverages provided by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iii) the sale of any food or beverage by a vendor for use in any candidate's campaign or for use by or on behalf of any political committee of a political party at a charge less than the normal comparable charge, if such charge is at least equal to the cost of such food or beverage to the vendor, to the extent that the cumulative value of such activity by such vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(iv) any unreimbursed payment for travel expenses made by any individual on behalf of any candidate or any political committee of a political party, to the extent that the cumulative value of such activity by such individual on behalf of any single candidate does not exceed $1,000 with respect to any single election, and on behalf of all political committees of a political party does not exceed $2,000 in any calendar year;

(v) *except for purposes of reporting and disclosing, pursuant to section 434, such amounts in excess of $200,* the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to any cost incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(vi) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vii) any loan of money by a State bank, a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, other than any overdraft made with respect to a checking or savings account, made in accordance with applicable law and in the ordinary course of business, but such loan—

(I) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors;

(II) shall be made on a basis which assures repayment, evidenced by a written instrument, and subject to a due date or amortization schedule; and

(III) shall bear the usual and customary interest rate of the lending institution;

(viii) *except for purposes of reporting and disclosing, pursuant to section 434, such amounts in excess of $200,* any gift, subscription, loan, advance, or deposit of money or anything of value to a national or a State committee of a political party specifically designated to defray any cost for construction or purchase of any office facility not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office:

(ix) any legal or accounting services rendered to or on behalf of—

(I) any political committee of a political party if the person paying for such services is the regular employer of the person rendering such servics and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) an authorized committee of a candidate or any other political committee, if the person paying for such services is the regular employer of the individual rendering such services and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26,

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) of this title by the committee receiving such services;

(x) Repealed. [the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided*, That—

[(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

[(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

[(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;]

(xi) the payment by a candidate, for nomination or election to any public office (including State or local office), or authorized committee of a candidate, of the costs of campaign materials which include information on or reference to any other candidate and which are used in connection with volunteer activities (including pins, bumper stickers, handbills, brochures, posters, and yard signs, but not including the use of broadcasting, newspapers, magazines, billboards, direct mail, or similar types of general public communication or political advertising): *Provided,* That such payments are made from contributions subject to the limitations and prohibitions of this Act;

(xii) Repealed. [the payment by a State or local committee of a political party of the costs of voter registration and get-out-the vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

[(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

[(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

[(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates;]

(xiii) payments made by a candidate or the authorized committee of a candidate as a condition of ballot access and payments received by any political party committee as a condition of ballot access; and

(xiv) any honorarium (within the meaning of section 441i of this title).

(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not be exclusions from the definition of contributions for purposes of reporting contributions as required by section 434, and all such contributions shall be reported.

(9)(A) The term "expenditure" includes—

(i) any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office; and

(ii) a written contract, promise, or agreement to make an expenditure.

(B) The term "expenditure" does not include—

(i) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(ii) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(iii) any communication by any membership organization or corporation to its members, stockholders, or executive or administrative personnel, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization (including a labor organization) or by a corporation directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate), shall, if such costs exceed $2,000 for any election, be reported to the Commission in accordance with section 434(a)(4)(A)(i) of this title, and in accordance with section 434(a)(4)(A)(ii) of this title with respect to any general election;

(iv) *except for purposes of reporting and disclosing, pursuant to section 434, such amounts in excess of $200,* the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply to costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines, or similar types of general public political advertising;

(v) any payment made or obligation incurred by a corporation or a labor organization which, under section 441b(b) of this title, would not constitute an expenditure by such corporation or labor organization;

(vi) *except for purposes of reporting and disclosing, pursuant to section 434, such amounts in excess of $200,* any costs incurred by an authorized committee or candidate in connection with the solicitation of contributions on behalf of such candidate, except that this clause shall not apply with respect to costs incurred by an authorized committee of a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 441a(b), but all such costs shall be reported in accordance with section 434(b);

(vii) the payment of compensation for legal or accounting services—

(I) rendered to or on behalf of any political committee of a political party if the person paying for such services is the regular employer of the individual rendering such services, and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(II) rendered to or on behalf of a candidate or political committee if the person paying for such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95 or chapter 96 of title 26.

but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 434(b) by the committee receiving such services;

(viii) Repealed. [the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs) used by such committee in connection with volunteer activities on behalf of nominees of such party: *Provided,* That—

[(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication of political advertising;

[(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

[(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;]

(ix) Repealed. [the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided,* That—

[(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

[(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

[(3) such payments are not made from contributions designated to be spent on behalf of a particular candidate or candidates; and

[(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.]

(C) The exclusions provided in clauses (iv) and (vi) of subparagraph (B) shall not be exclusions from the definition of expenditures for purposes of reporting expenditures as required by this Act, and all such expenditures shall be reported.

* * * * * * *

(13) The term "identification" means—

(A) in the case of any individual, the name, the [mailing address] *permanent residence address* and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

* * * * * * *

(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate. *An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate and shall not constitute an "independent expenditure" where—*

(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees,

(ii) serving as an officer of the candidate's authorized committees, or

(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal Office, in the same election cycle, including any advise relating to the candidate's decision to seek Federal office;

(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 441a in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 441a in connection with a candidate's campaign; or

(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person had made or is planning to make expenditures expressly advocating the candidate's election.

* * * * * * *

(20) The term "election cycle" means—

(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the last previous general election for such office or seat which such candidate seeks and ending on the date of the next election; or

(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next election.

* * * * * * *

§ 434. Reporting requirements

* * * * * * *

(b) *Contents of reports.* Each report under this section shall disclose—

(1) the amount of cash on hand at the beginning of the reporting period;

(2) [for the reporting period and the calendar year.] *for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,* the total amount of all receipts, and the total amount of all receipts in the following categories:

(A) contributions from persons other than political committees;

(B) for an authorized committee, contributions from the candidate;

(C) contributions from political party committees;

(D) contributions from other political committees;

(E) for an authorized committee, transfers from other authorized committees of the same candidate;

(F) transfers from affiliated committees and, where the reporting committee is a political party committee, transfers from other political party committees, regardless of whether such committees are affiliated;

(G) for an authorized committee, loans made by or guaranteed by the candidate;

(H) all other loans;

(I) rebates, refunds, and other offsets to operating expenditures;

(J) dividends, interest, and other forms of receipts; and

(K) for an authorized committee of a candidate for the office of President, Federal funds received under chapter 95 and chapter 96 of title 26;

(3) the identification of each—

(A) person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, *in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,* or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution;

(B) political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

(C) authorized committee which makes a transfer to the reporting committee;

(D) affiliated committee which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(E) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and date and amount of value of such loan;

(F) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, *in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committes,* together with the date and amount of such receipt; and

(G) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, *in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,* together with the date and amount of any such receipt;

(4) [for the reporting period and the calendar year,] *for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates,* the total amount of all disbursements, and all disbursements in the following categories:

(A) expenditures made to meet candidate or committee operating expenses;

(B) for authorized committees, transfers to other committees authorized by the same candidate;

(C) transfers to affiliated committees and, where the reporting committee is a political party committee, transfers to other political party committees, regardless of whether they are affiliated;

(D) for an authorized committee, repayment of loans made by or guaranteed by the candidate;

(E) repayment of all other loans;

(F) contribution refunds and other offsets to contributions;

(G) for an authorized committee, any other disbursements;

(H) for any political committee other than an authorized committee—

(i) contributions made to other political committees;

(ii) loans made by the reporting committees;

(iii) independent expenditures;

(iv) expenditures made under section 441a(d) of this title; and

(v) any other disbursements; and

(I) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitation of section 441a(b);

(5) the name and address of each—

(A) person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year *in the case of committees other than authorized committees or in excess of $200 within the election cycle in the case of authorized committees,* is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure **[**;**]**, *except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed;*

(B) authorized committee to which a transfer is made by the reporting committee;

(C) affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfers;

(D) person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment; and

(E) person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution was reported under paragraph (3)(A) of this subsection, together with the date and amount of such disbursement;

(6)(A) for an authorized committee, the nane and address of each person who has received any disbursement not disclosed under paragraph (5) in an aggregate amount or value in excess of $200 within the [calender year] *election cycle*, together with the date and amount of any such disbursement;

(B) for any other political committee, the name and address of each—

(i) political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution;

(ii) person who has received a loan from the reporting committee during the reporting period, together with the date and amount of such loan;

(iii) person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure and a statement which indicates whether such independent expenditure is in support of, or in opposition to, a candidate, as well as the name and office sought by such candidate, and a certification, under penalty of perjury, whether such independent expenditure is made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(iv) person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under section 441a(d) of this title, together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by, the candidate on whose behalf the expenditure is made; and

(v) person who has received any disbursement not otherwise disclosed in this paragraph or paragraph (5) in an aggregate amount or value in excess of $200 within the calendar year from the reporting committee with the reporting period, together with the date, amount and purpose of any such disbursement:

* * * * * * *

(c) Statements by other than political committee; filing; contents; indices of expenditures

* * * * * * *

(d)(1) Not later than the day after the date on which a candidate for the United States Senate qualifies for the ballot for a general election, as such term is defined in section 501(6), or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first, each such candidate in such election shall file with the Commission a declaration of whether or not such candidate intends to make expenditures in excess of the amount of the limitation on expenditures for such election, as determined under section 503(b).

(2) Any declaration filed pursuant to paragraph (1) may be amended or changed at any time within 7 days after the filing of such declaration. Such amended declaration may not be amended or changed further.

(e)(1) Any candidate for the United States Senate who qualifies for the ballot for a general election, as such term is defined in section 501(6)—

(A) who is not eligible to receive benefits under section 502, and

(B) who either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 75 percent of the amount of the limitation determined under section 503(b) for such Senate election,

shall file a report with the Commission within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made, or within 24 hours after the date of qualification for the general election ballot, whichever is later, setting forth the candidate's total contributions and total expenditures for such election, and thereafter shall file additional reports with the Commission within 24 hours after each time additional contributions are raised or expenditures are made, or are obligated to be made which aggregate an additional 5 percent of such limit. Such reports shall continue to be filed pursuant to the provisions of this section until such candidate has raised aggregate contributions or made or has obligated to make aggregate expenditures equal to 133⅓ percent of the limit provided for such State pursuant to section 503(b).

(2) The Commission, within 24 hours after each such report has been filed, shall notify each candidate in the election involved who is eligible to receive benefits pursuant to the provisions of this title under section 504, about such report, and after an opposing candidate has raised aggregate contributions or made or had obligated to make aggregate expenditures in excess of the limit provided for such State pursuant to section 503(b), the Commission shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled.

(3) Notwithstanding the reporting requirement established in this subsection, the Commission may make its own determination that a candidate in a general election, as such term is defined in section 501(6), who is not eligible to receive benefits under section 504, has raised aggregate contributions or made or has obligated to make aggregate expenditures for such election which exceed the amount of the limitation determined under section 503(b) for such election. The Commission, within 24 hours after making such determination, shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about such determination, and shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such candidate is entitled.

(f)(1) All independent expenditures, if any, (including those described in subsection (b)(6)(B)(iii)) made by any person after the date of the last Federal election with regard to a general election, as such term is defined in section 501(6), and all obligations to make

such expenditures incurred by any person during such period, if any, shall be reported by such person to the Commission as provided in paragraph (2), if such expenditure or obligation is described in such paragraph.

(2) Independent expenditures by any person as referred to in paragraph (1) shall be reported within 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds $10,000. Thereafter, independent expenditures referred to in such paragraph, made by the same person in the same election, shall be reported within 24 hours after each time the aggregate amount of such expenditures incurred or obligated, not yet reported under this subparagraph, exceeds $5,000.

(3) Each report under this subsection shall be filed with the Commission and the Secretary of State for the State of the election involved and shall contain (A) the information required by subsection (b)(6)(B)(iii) of this section, and (B) a statement filed under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat. The Commission shall, within 24 hours after such report is made, notify each candidate in the election involved who is eligible to receive benefits pursuant to section 504(A)(1)(C) of this Act, about each such report, and shall certify such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

(4)(A) Notwithstanding the reporting requirements established in this subsection, the Commission may made its own determination that a person has made independent expenditures, or has incurred an obligation to make such expenditures, as the case may be, with regard to a general election, as defined in section 501(6), that in the aggregate total more than the applicable amount specified in paragraph (2).

(B) The Commission shall, within 24 hours after such determination is made, notify each candidate in the election involved who is eligible to receive benefits under section 504(a)(1)(C) about each determination under subparagraph (A), and shall certify, pursuant to the provisions of subsection (i), such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

(g)(1) When two or more persons make an expenditure or expenditures in coordination, consultation, or concert (as described in paragraph (2) or otherwise) for the purpose of promoting the election or defeat of a clearly identified candidate, each such person shall report to the Commission, under subsection (f), the amount of such expenditure or expenditures made by such person in coordination, consultation, or concert with such other person or persons when the total amount of all expenditures made by such persons in coordination, consultation, or concert with each other exceeds the applicable amount provided in such subsection.

(2) An expenditure by one peson shall constitute an expenditure in coordination, consulation, or conert with another person where—

(A) there is any arrangement, coordination, or direction with respect to the expenditure between such persons making the ex-

penditures, including any officer, director, employee or agent of such person;

(B) in the same two-year election cycle, one of the persons making the expenditures (including any officer, director, employee or agent of such person) is or has been, with respect to such expenditures—

(i) authorized by such other person to raise or expend funds on behalf of such other person; or

(ii) receiving any form of compensation or reimbursement from such other person or an agent of such other person;

(C) one of the persons making expenditures (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled such other person in connection with such expenditure; or

(D) one of the persons making expenditures and such other person making expenditures each retain the professional services of the same individual or person in connection with such expenditures.

(h)(1) Every political committee, as defined in section 431(4), active in non-Federal elections and maintaining separate accounts for this purpose shall file with the Commission reports of funds received into and disbursements made from such accounts for activities which may influence an election to any Federal office. For purposes of this section, activities which may influence an election to any Federal office include, but are not limited to—

(A) voter registration and get-out-the-vote drives directed to the general public in connection with any election in which Federal candidates appear on the ballot;

(B) general public political advertising which includes references, however incidental, to clearly identified Federal as well as non-Federal candidates for public office; or which does not clearly identify Federal candidates but urges support for or opposition to all the candidates of a political party or other candidates in a classification or context which includes Federal candidates; and

(C) any other activities which require an allocation of costs between a political committee's Federal and non-Federal accounts reflecting the impact on Federal elections in accordance with regulations prescribed or Advisory Opinions rendered by the Commission.

(2) Reports required to be filed by this subsection shall be filed for the same time-periods required for political committees under section 434(a), and shall include:

(A) a separate statement, for each of the activities in connection with which a report is required under paragraph (1), of the aggregate total of disbursements from the non-Federal accounts; and

(B) supporting schedules, providing an identification of each donor together with the amount and date of each donation with regard to those receipts of the non-Federal account which comprise disbursements reported under subparagraph (A), provided, however, that such schedules are required only for donations from any one source aggregating in excess of $200 in any calendar year.

(3) Reports required to be field by this subsection need not inlcude donations made to or on behalf of non-Federal candidates or political organizations in accordance with the financing and reporting requirements of State laws, or other disbursements from the non-Federal accounts in support of exclusively non-Federal election activities, provided that such donations or disbursements are governed solely by such State laws and not subject to paragraph (1) of this subsection.

(i) The certification required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination, notwithstanding the provisions of section 505(a).

(j) Within 15 days after a candidate for the Senate qualifies for the primary ballot under applicable State law, such candidate shall file with the Commission, a declaration stating whether or not such candidate intends to expend from his personal funds, and the funds of his immediate family, and incur personal loans, in connection with his campaign for such office, in the aggregate of $250,000 or more, for the election cycle.

(k)(1) Any candidate for the United States Senate who expends from his personal funds and the funds of his immediate family, and incurs personal loans, in connection with his campaign for such office, in the aggregate of $250,000 or more, for the election cycle, shall file a report with the Commission within 24 hours after such expenditures have been made or loans incurred. Thereafter the expenditures referred to in this paragraph shall be reported within 24 hours after each time the aggregate of such expenditures or loans exceeds $10,000.

(2) The Commission within 24 hours after a report has ben filed under paragraph (1) shall notify each candidate in the election involved who is eligible to receive payments pursuant to the provisions of this title under section 504 about each such report.

(3) Notwithstanding the reporting requirements in this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures from the personal funds of such candidate or the funds of any member of the immediate family of such candidate or incurred personal loans in connection with his campaign aggregating in excess of $250,000, or thereafter in increments of $10,000 during the election cycle. The Commission within 24 hours after making such determination shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about each such determination.

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§ 437c. Federal Election Commission

(a) ESTABLISHMENT; MEMBERSHIP; TERM OF OFFICE; VACANCIES; QUALIFICATIONS; COMPENSATION; CHAIRMAN AND VICE CHAIRMAN.—(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and [6 members**]** *7 members* appointed by the President, by and with the advice and consent of the Senate. **[**No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.**]** *No more than 4 members of the Commission appointed under this paragraph may be affiliated with the same political party, and such appointments shall be made in a manner to assure that the same political party shall not have 4 or more members affiliated with such party on such Commission for two succeeding years.*

[(2)(A) Members of the Commission shall serve for terms of 6 years, except that of the members first appointed—

[(i) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977;

[(ii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and

[(iii) two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

[(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

[(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

[(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.**]**

(2)(A) Members of the Commission shall serve for terms of 7 years, except that of the members appointed after April 30, 1989—

(i) one of the two members appointed for the term beginning May 1, 1991, shall be appointed for a term of 6 years;

(ii) one of the two members appointed for the term beginning May 1, 1993, shall be appointed for a term of 6 years; and

(iii) one of the two members appointed for the term beginning May 1, 1995, shall be appointed for a term of 6 years.

(B) One additional member of the Commission shall be appointed for a term beginning May 1, 1989, and shall be appointed for a term of 5 years.

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§ 437g. Enforcement

(a) ADMINISTRATIVE AND JUDICIAL PRACTICE AND PROCEDURE.—

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(5)(A) If the Commission believes that a violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may include a requirement that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation.

(B) If the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of title 26 has been committed, a conciliation agreement entered into by the Commission under paragraph (4)(A) may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation.

(C) If the Commission by an affirmative vote of 4 of its members, determines that there is probably cause to believe that a knowing and willful violation of this Act which is subject to subsection (d) of this section, or a knowing and willful violation of chapter 95 or chapter 96 of title 26, has occurred or is about to occur, it [may refer] *shall refer* such apparent violation to the Attorney General of the United States without regard to any limitations set forth in paragraph (4)(A).

(D) In any case in which a person has entered into a conciliation agreement with the Commission under paragraph (4)(A), the Commission may institute a civil action for relief under paragraph (6)(A) if it believes that the person has violated any provision of such conciliation agreement. For the Commission to obtain relief in any civil action, the Commission need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

* * * * * * *

§ 439a. Use of contributed amounts for certain purposes

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, may be contributed to any organization described in section 170(c) of Title 26, or may be used for any other lawful purpose, including transfers without limitation to any national, State, or local committee of any [political party; except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on January 8, 1980, no such amounts may be converted by any person to any personal use, other than to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office.] *political party.*

* * * * * * *

§ 441a. Limitations on contributions and expenditures

(a) Dollar Limits on Contributions.—(1) No person shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year which, in the aggregate, exceed $20,000; or

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) No multicandidate political committee shall make contributions—

(A) to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000;

(B) to the political committees established and maintained by a national political party, which are not the authorized political committees of any candidate, in any calendar year, which, in the aggregate, exceed $15,000; [or]

(C) to any other political committee in any calendar year which, in the aggregate, exceed $5,000[.]*;*

(D) to any candidate for the office of Member of, or Delegate or Resident Commissioner to, the House of Representatives and the authorized political committees of such candidate with respect to—

(i) a general or special election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress (including any primary election, convention, or caucus relating to such general or special election) which exceed $100,000 ($125,000 if at least two candidates qualify for the ballot in the general or special election involved and at least two candidates qualify for the ballot in a primary election relating to such general or special election), when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election); or

(ii) a runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which exceed $25,000 when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such runoff election.

(E) to any candidate for the office of Senator and the authorized political committees of such candidate with respect to—

(i) a general or special election for such office (including any primary election, convention, or caucus relating to such general or special election) which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or

special election) exceeds an amount equal to 30 percent of the amount provided in section 315(i); or

(ii) a runoff election for the office of United States Senator which exceeds, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such runoff election, an amount equal to 30 percent of the limitation on expenditures provided in section 315(j), for runoff elections; or

(F) to any State committee of a political party, including any subordinate committee of a State committee, which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such State committee exceeds an amount equal to—

(i) 2 cents multiplied by the voting age population of the State of such State committee, or

(ii) $25,000,

whichever is greater. The limitation of this subparagraph shall apply separately with respect to each two-year Federal election cycle, covering a period from the day following the date of the last Federal general election held in that State through the date of the next regularly scheduled Federal general election.

* * * * * * *

[(8) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.]

(8) For purposes of this subsection—

(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate;

(B) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

(ii) the conduit or intermediary is a political committee, other than an authorized committee of a candidate, within the meaning of section 431(4), or an officer, employee or

other agent of such a political committee, or an officer, employee or other agent of a connected organization, within the meaning of section 431(7), acting in its behalf; or

(iii) the conduit or intermediary is required to register as a lobbyist or lobby organization as defined under (2 U.S.C. 266), or an officer, employee or other agent of such an organization."

(C) the limitations imposed by this paragraph shall not apply to—

(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a rundraising reception, dinner, or other event in accordance with rules and regulations prescribed by the Commission by (I) two or more candidates, (II) two or more national, State, or local committees of a political party within the meaning of section 431(4) acting on their own behalf, or (III) a special committee formed by (a) two or more candidates or (b) one or more candidates and one or more national, State, or local committees of a political party acting on their own behalf;

(ii) fundraising efforts for the benefit of a candidate which are conducted by another candidate within the meaning of section 431(2).

In all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(9) For purposes of the limitations imposed by this section, no contributions may be received by a candidate or the candidate's authorized committees for the purpose of repaying any loan by the candidate to the candidate or to the candidate's authorized committees.

* * * * * * *

(c) INCREASES ON LIMITS BASED ON INCREASES IN PRICE INDEX.—(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the percent difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by [subsection (b) of this section and subsection (d)] *subsections (b), (d), (i), and (j)* of this section shall be increased by such percent difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means the calendar year of 1974 *for subsections (b) and (d) and the term "base period" means the calendar year of the first election after the date of enact-*

ment of the Senatorial Election Campaign Act of 1989, for subsections (i) and (j).

(d) EXPENDITURES BY NATIONAL COMMITTEE, STATE COMMITTEE, OR SUBORDINATE COMMITTEE OF STATE COMMITTEE IN CONNECTION WITH GENERAL ELECTION CAMPAIGN OF CANDIDATES FOR FEDERAL OFFICE.—(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs **[**(2) and (3)**]** *(2), (3), and (4)* of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (e) of this section). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) A State committee of a political party, including any subordinate committee of a political party, may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 4 cents multiplied by the voting age population of that State (as certified under subsection (e) of this section).

[3**]***(4)* The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

(i) 2 cents multiplied by the voting age population of the State (as certified under subsection (e) of this section); or

(ii) $20,000; and

(B) in case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner of any other State, $10,000.

(5) No congressional campaign committee may accept, during any two-year election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which may be made during such election cycle by that campaign committee on behalf of candidates for Senator, Representative, Delegate, or Resident Commissioner pursuant to the provisions of paragraph (3).

(6) No national committee of a political party may accept contributions from multicandidate political committees and separate segregated funds, during any two-year election cycle, which, in the ag-

gregate, equal an amount in excess of an amount equal to 2 cents multiplied by the voting age population of the United States.

(7) The limitations contained in paragraphs (2) and (4) shall apply to any expenditure through general public political advertising, whenever made, which clearly identifies by name an individual who is, or is seeking nomination to be, a candidate in the general election for Federal office of President, Senator or Representative; provided that this paragraph shall not apply to direct mail communications designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

* * * * * * *

(h) SENATORIAL CANDIDATES.— Nothwithstanding any other provision of this Act, amounts totaling not more than $17,500 may be contributed to a candidate for nomination for election, or for election, to the United States Senate during the year in which an election is held in which he is such a candidate, by the Republican or Democractic Senatorial Campaign Committee, or the national committee of a political party, or any combination of such committees.

(i) For purposes of subsection (a)(2)(E)(i), such limitation shall be an amount equal to 67 percent of the aggregate of $400,000, plus—

(1) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or

(2) in States having a voting age population over 4 million, 30 cents multiplied by 4 million plus 25 cents multiplied by the voting age population over 4 million;

except that such amount shall not be less than $950,000, nor more than $5,500,000.

(j) For purposes of subsection (a)(2)(E)(ii), such limitation shall be an amount equal to 20 percent of the aggregate of $400,000, plus—

(1) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or

(2) in States having a voting age population over 4 million, 30 cents multiplied by 4 million plus 25 cents multiplied by the voting age population over 4 million;

except that such amount shall not be less than $950,000, nor more than $5,500,000.

(k) Any amount solicited, received or spent by a national, State or loca committee of a political party, directly or indirectly, shall be subject to the provisions of this Act, if such amount is solicited, received or spent in connection with a Federal election. No part of such amount may be allocated to a non-Federal account or otherwise maintained in, or paid from, an account that is not subject to this Act. This section shall not apply to amounts described in section 431(b)(B)(viii) of title 2.

(l) For purposes of this section, the term "in connection with a Federal election" includes any activity that may affect a Federal election including but not limited to the following:

(1) voter registration and get out the vote activities;

(2) generic activities, including but not limited to any broadcasting, newspaper, magazine, billboard, mail, or similar type of communication or public advertising;

(3) campaign materials which identify a federal candidate, regardless of any other candidate who may also be identified.

* * * * * * *

§ 441d. Publication and distribution of statements and solicitations; charge for newspaper or magazine space

(a) Whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication—

(1) if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee, or

(2) if paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee;

(3) if not authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state the name of the person who paid for the communication and state that the communciation is not authorized by any candidate or candidate's committee**[.]**, *except that whenever any person makes an independent expenditure through (A) a broadcast communciation on any television station, the broadcast communication shall include a statement clearly readable to the viewer that appears continuously during the entire length of such communication setting forth the name of such person and in the case of a political committee, the name of any connected or affiliated organization, or (B) a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection, the following sentence: "The cost of presenting this communication is not subject to any campaign contribution limits.", and a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization; and*

(4) if paid for or authorized by a general election candidate for the Senate, or the authorized committee of such candidate who has not agreed to abide by the expenditure limits in section 503, such advertisement or announcement shall contain the following sentence: "This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act."

(b) No person who sells space in a newspaper or magazine to a candidate or to the agent of a candidate, for use in connection with such candidate's campaign, may charge any amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

* * * * * * *

(The following is a new Title V to the Federal Election Campaign Act:)

"TITLE V—SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE GENERAL ELECTION CAMPAIGNS

"DEFINTIONS

"SEC. 501. For purposes of this title—

"(1) unless othewise provided in this title the definitions set forth in section 301 of this Act apply to this title;

"(2) the term 'authorized committee' means, with respect to any candidate for election to the office of United States Senator, any political committee which is authorized in writing by such candidate to accept contributions or make expenditure on behalf of such candidate to further the election of such candidate;

"(3) the term 'candidate' means an individual who is seeking nomination for election, or election to the office of United States Senator and such individual shall be deemed to seek nomination for election, or election, if such individual meets the requirements of subparagraph (A) or (B) of section 301(2);

"(4) the term 'election cycle' means—

"(A) in the case of a candidate or the authorized committee of a candidate, the term beginning on the day after the date of the last previous general election for such office or seat which such candidate seeks and ending on the date of the next election; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next election;

"(5) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(6) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(7) the term 'general election period' means the period beginning on the day after the date of the primary or runoff election, whichever is later, and ending on the date of such general election or the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election, whichever occurs first;

"(8) the term 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse and the spouse of any such person.

"(9) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, the Presidential Election Campaign Fund Act, provided that a can-

didate in a generel election held by a State to elect a Senator subsequent to an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, shall be treated as a candidate of a major party for purposes of this title;

"(10) the term 'primary election' means any election which may result in the selection of a candidate for the ballot of the general election;

"(11) the term 'primary election period' means the period beginning on the day following the date of the last Senate election for the same Senate office and ending on the date of the first primary election for such office following such last Senate election for such office, or the date on which the candidate withdraws from the election or otherwise ceases actively to seek election, whichever occurs first;

"(12) the term 'runoff election' means the election held after a primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as nominee(s) for the Federal office sought;

"(13) the term 'runoff election period' means the period beginning on the day following the date of the last primary election for such office and ending on the date of the runoff election for such office;

"(14) the term 'Senate Fund' means the Senate Election Campaign Fund maintained pursuant to section 506 by the Secretary of the Treasury in the Presidential Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1986; and

"(15) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"ELIGIBILITY TO RECEIVE BENEFITS

"SEC. 502. (a) To be eligible to receive benefits under this title, in addition to the requirements of subsection (d), a candidate shall, within 7 days after qualifying for the general election ballot under the law of the State involved or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first—

"(1) certify to the Commission under penalty of perjury that during the period beginning on January 1 of the calendar year preceding the year of the general election involved, or in the case of a special election for the office of United States Senator, during the period beginning on the day on which the vacancy occurs in that office, and ending on the day of such certification, such candidate and the authorized committees of such candidate have received contributions in an amount at least equal to 10 cents multiplied by the voting age population of such State or $150,000, whichever is greater, up to an amount that does not exceed $650,000;

"(2) certify to the Commission under penalty of perjury that all contributions received for purposes of paragraph (1) have come from individuals and that no contribution from such individual, when added to all contributions to or for the benefit of such candidate from such individual, was taken into account to the extent such amount exceeds $250;

"(3) certify to the Commission under penalty of perjury that such candidate and the authorized committees of such candidate have not expended for the primary election, more than the amount equal to 67 percent of the general election spending limit applicable to such candidate pursuant to section 503(b), or more than $2,750,000, whichever amount is less;

"(4) certify to the Commission under penalty of perjury that such candidate and the authorized committees of such candidate have not expended for any runoff election, more than an amount equal to 20 percent of the general election spending limit applicable to such candidate pursuant to section 503(b);

"(5) certify to the Commission under penalty of perjury that 75 per centum of the aggregate amount of contributions received for purposes of paragraph (1) have come from individuals residing in such candidate's State;

"(6) certify to the Commission under penalty of perjury that at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(7) agree in writing that such candidate and the authorized committees of such candidate—

"(A) have not made and will not make expenditures which exceed the limitations established in section 503, except as otherwise provided in this title;

"(B) will not accept any contributions in violation of section 315;

"(C) will not accept any contribution for the general election involved except to the extent that such contribution is necessary to defray expenditures for such election that in the aggregate do not exceed the amount of the limitation on expenditures established in section 503(b), unless otherwise provided in this Act;

"(D) will deposit all payments received under this section in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(E) will furnish campaign records, evidence of contributions and other appropriate information to the Commission; and

"(F) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(8) notify the Commission of their intention to make use of the benefits provided for in section 504.

"(b) For the purposes of subsection (a)(1) and paragraph (2)(B) of section 504(a), in determining the amount of contributions received by a candidate and the candidate's authorized committees—

"(1) no contribution other than a gift of money made by a written instrument which identifies the person making the contribution shall be taken into account:

"(2) no contribution made through an intermediary or conduit referred to in section 315(a)(8) shall be taken into account;

"(3) no contribution received from any person other than an individual shall be taken into account, and no contribution received from an individual shall be taken into account to the extent such contribution exceeds $250 when added to the total amount of all other contributions made by such individual to or for the benefit of such candidate beginning on the applicable date specified in paragraph (4) of this subsection; and

"(4) no contribution received prior to January 1 of the calendar year preceding the year in which the general election involved or received after the date on which the general election involved is held shall be taken into account, and in the case of a special election, no contribution received prior to the date on which the vacancy occurs in that office or received after the date on which the general election involved is held shall be taken into account.

"(c) The threshold amounts in subsection (a)(1) shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in such section shall mean the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1989.

"(d) In addition to the requirements of subsection (a), to be eligible to receive benefits under this title a candidate shall, on the day such candidate files as a candidate for the primary election—

"(1) file with the Commission a declaration of whether or not—

"(1) such candidate and the authorized committees of such candidate intend to make expenditures, for the primary election, more than an amount equal to 67 percent of the general election spending limit applicable to such candidate pursuant to section 503(b), or more than $2,750,000, whichever amount is less;

"(2) such candidate and the authorized committees of such candidate intend to make expenditures, for any runoff election, more than an amount equal to 20 percent of the general election spending limit applicable to such candidate pursuant to section 503(b); and

"(3) such candidate and the authorized committees of such candidate intend to make expenditures, for the general election, more than an amount equal to the general election spending limit applicable to such candidate pursuant to section 503(b).

"LIMITATIONS ON EXPENDITURES

"SEC. 503. (A) No candidate who is entitled to a benefit in a general election under this title shall make expenditures from the personal funds of such candidate, or the funds of any member of the immediate family of such candidate, or incur personal loans in connection

with such candidate's campaign for the Senate, aggregating in excess of $20,000, during the election cycle.

"(b)(1) Except as otherwise provided in this Act, no candidate who is entitled to a benefit for use in a general election under this title shall make expenditures for such general election which in the aggregate exceed $400,000, plus—

> *"(A) in States having a voting age population of 4 million or less, 30 cents multiplied by the voting age population; or*
>
> *"(B) in States having a voting age population over 4 million, 30 cents multiplied by 4 million, plus 25 cents multiplied by the voting age populations over 4 million;*

except that the amount of the limitation under this subsection, in the case of any candidate, shall not be less than $950,000, normore than $5,500,000.

"(2) Notwithstanding the provisions of paragraph (1), in any State with no more than one transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, no candidate in such State who receives a benefit for use in a general election under this title shall make expenditures for such general election which in the aggregate exceed the higher of—

> *"(A) $950,000; or*
>
> *"(B) $400,000 plus 45 cents multiplied by the voting age population of 4 million or less, plus 40 cents multipled by the voting age population over 4 million, up to an amount not exceeding $5,500,000.*

"(c) The limitations on expenditures in subsections (b), (d), and (e) Shall be subject to the provisions of subsections (b) and (c) of section 504.

"(d) No candidate who is otherwise eligible to receive benefits for a general election under this title may receive any such benefits if such candidate spends for the primary election, more than the amount equal to 67 percent of the limitation on expenditures for the general election as determined under subsection (b), or more than $2,750,000, whichever amount is less.

"(e) No candidate who is otherwise eligible to receive benefits for a general election under this title may receive any such benefits if such candidate spends for a runoff election, if any, more than an amount which in the aggregate exceeds 20 percent of the maximum amount of the limitation applicable to such candidate as determined under subsection (b).

"(f)(1) For purposes of this section, the amounts set forth in subsections (b), (d), and (e) of this section shall be increased at the beginning of each calendar year based on the increase in the price index as determined under section 315(c), except that for purposes of determining such increase, the term 'base period', as used in section 315(c), means the calendar year of the first election after the date of enactment of the Senatorial Election Campaign Act of 1989.

"(2) The limitation set forth in subsection (b) shall not apply to expenditures by a candidate or a candidate's authorized committees from a compliance fund established to defray the costs of legal and accounting services provided solely to insure compliance with this Act; provided however that—

> *"(A) such fund contains only contributions (including contributions received in excess of any amount necessary to defray*

qualified campaign expenditures pursuant to section 313) received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate total amount of contributions to, and expenditures from, such fund do not exceed 10 percent of the limitation on expenditures for the general election as determined under subsection (b); and

"(C) no transfers may be made from such fund to any other accounts of the candidate's authorized committees, except that the fund may receive transfers from such other accounts at any time.

In the event that, subsequent to any general election, a candidate determines that the costs of necessary and continuing legal and accounting services require contributions to an expenditures from the fund in excess of the limitations of this paragraph, the candidate may petition the Commission for a waiver of such limitations up to any additional amounts as the Commission may authorize in connection with such waiver. Any waiver, or denial of a waiver, by the Commission under this paragraph shall be subject to judicial review under section 508. Any money remaining in such fund when the candidate decides to terminate or dissolve such fund, shall be—

"(i) contributed to the United States Treasury to reduce the budget deficit, or

"(ii) transferred to a fund of a subsequent campaign of that candidate.

"(g) If, during the primary and runoff period portion of the two-year election cycle preceding the candidate's general election, independent expenditures by any person or persons aggregating an amount in excess of $10,000 are made, or are obligated to be made, in opposition to a candidate or for the opponent of such candidate, the limitations provided in subsections (d) and (e), as they apply to such candidate, shall be increased for that primary or runoff election in an amount equal to the amount of such expenditures made during the period covered by such election.

"ENTITLEMENT OF ELIGIBLE CANDIDATES TO BENEFITS

"SEC. 504. (a) Except as otherwise provided in section 506(c)—

"(1) all eligible candidates shall be entitled to—

"(A) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(B) mailing rates provided in section 3629 of title 39 of the United States Code; and

"(C) payments under section 506 equal to the aggregate total amount of independent expenditures made or obligated to be made, in the general election involved, by any person in opposition to, or on behalf of an opponent of such eligible candidate, as such expenditures are reported by such person or determined by the Commission under subsection (f) of section 304;

"(2) if any candidate in the same general election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for

such election which exceed the amount of the limitation determined under section 503(b) for such election—

"(A) an eligible candidate who is a major party candidate shall be entitled to receive a payment under section 506 in an amount equal to—

"(i) two-thirds of the amount of the limitation determined under section 503(b) with regard to such candidate when a candidate in the same election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 100 percent of such limitation determined under section 503(b); and

"(ii) one-third of the amount of the limitation determined under section 503(b) with regard to such candidate when a candidate in the same election not eligible to receive funds under this title either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed 133⅓ percent of such limitation determined under section 503(b); or

"(B) an eligible candidate who is not a major party candidate shall be entitled to matching payments under section 506, equal to the amount of each contribution received by such eligible candidate and the candidate's authorized committees, provided that in determining the amount of each such contribution—

"(i) the provisions of section 502(b) shall apply; and

"(ii) contributions required to be raised under section 502(a)(1) shall not be eligible to be matched; and

the total amount of payments to which a candidate is entitled under this subparagraph shall not exceed 50 percent of the amount of the limitation determined under section 503(b) applicable to such candidate.

"(b) A candidate who receives payments under paragraph (1)(C) or (2) of subsection (a) may spend such funds to defray expenditures in the general election without regard to the provisions of section 503(b).

"(c)(1) A candidate who receives benefits under this section may make expenditures for the general election without regard to the provisions of subparagraph (A) of section 502(a)(7) or subsection (a) or (b) of section 503 if and when any candidate in the same general election not eligible to receive payments under this section either raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed the amount of 133⅓ percent of the expenditure limit applicable to such candidate under section 503(b) for such election.

"(2) A candidate who receives benefits under this section may receive contributions for the general election without regard to the provisions of subparagraph (C) of section 502(a)(7) if any major party candidate in the same general election is not eligible to receive benefits under this section, or if and when any other candidate in the same general election who is not eligible to receive benefits under this section raises aggregate contributions or makes or obligates to make aggregate expenditures for such election which exceed

75 percent of the amount of the expenditure limit applicable to such candidate under section 503(b) for such election.

"(d) Benefits received by a candidate under this section shall be used to defray expenditures incurred with respect to the general election period for such candidate. Such benefits shall not be used (1) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate, (2) to make any expenditure other than expenditures to further the general election of such candidate, (3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made, or (4) to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506 the Commission shall certify such eligibility to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled, unless the provisions of section 506(c) apply. The request referred to in the preceding sentence shall contain—

"(1) such information and be made in accordance with such procedures, as the Commission may provide by regulation; and

"(2) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) Certifications by the Commission under subsection (a) and all determinations made by the Commission under this title, shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 508.

"ESTABLISHMENT OF FUND; PAYMENTS TO ELIGIBLE CANDIDATES

"SEC. 506. (a)(1) The Secretary shall maintain in the Presidential Election Campaign Fund (hereafter referred to as the 'Fund') established by section 9006(a) of the Internal Revenue Code of 1986, in addition to any other accounts maintained under such section, a separate account to be known as the 'Senate Fund'. The Secretary shall deposit into the Senate Fund, for use by candidates eligible to receive payments under this title, the amounts available after the Secretary determines that the amounts in the Fund, plus the amounts of revenue the Secretary projects will accrue to the Fund during the remainder of the period ending on December 31 of the year of the next Presidential election, equal 110 percent of the amount the Secretary projects will be necessary for payments under subtitle H of the Internal Revenue Code of 1986 during such remainder of such period. The monies designated for the Senate Fund shall remain available without fiscal year limitation.

"(2) On May 15 of each year following the year during which a regularly scheduled biennial Senate election has occurred, the Secretary shall determine the total amount in the Senate Fund, and

evaluate if such amount, plus the amount of revenue it projects will accrue to the Senate Fund (based on the computation made by the Secretary with respect to the Fund, as provided in paragraph (1)) during the period beginning on such date and ending on December 31 of the year of the next regularly scheduled biennial election, exceeds 110 percent of the total estimated expenditures of the Senate Fund during such period. If the Secretary determines that an excess amount exists, the Secretary shall transfer such excess to the general fund of the Treasury of the United States.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate involved in the certification, out of the Senate Fund, the amount certified by the Commission.

"(c)(1) If at the time of a certification by the Commission under section 505 for payment to an eligible candidate, the Secretary determines that the monies in the Senate Fund are not, or may not be, sufficient to satisfy the full entitlement of all such eligible candidates, the Secretary shall withhold from such payment such amount as he determines to be necessary to assure that an eligible candidate will receive a pro rata share of such candidate's full entitlement. Amounts so withheld shall be paid when the Secretary determines that there are sufficient monies in the Senate Fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient monies in the Senate Fund to satisfy the full entitlement of an eligible candidate, the amounts so withheld shall be paid in such manner that each eligible candidate receives his or her pro rata share of his or her full entitlement. The Secretary shall notify the Commission and each eligible candidate by registered mail of the reduction in the amount to which that candidate is entitled under section 505.

"(2) If the provisions of this subsection result in a reduction in the amount to which an eligible candidate is entitled under section 505 and payments have been made under this section in excess of the amount to which such candidate is entitled, such candidate is liable for repayment to the Fund of the excess under procedures the Commission shall prescribe by regulation.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a)(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 per centum of the eligible candidates of each major party and 10 per centum of all other eligible candidates, as designated by the Commission through the use of an appropriate statistical method of random selection to determine, among other things, whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements of this title.

"(2) After each special election, the Commission shall conduct an examination and audit of the campaign accounts of each eligible candidate in such election to determine whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements under this title.

"(3) The Commission may conduct an examination and audit of the campaign accounts of any eligible candidate in a general elec-

tion if the Commission, by an affirmative vote of four members, determines that there exists reason to believe that such candidate has violated any provision of this title.

"(b) If the Commission determines that any portion of the payments made to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(c) If the Commission determines that any amount of any benefit made to a candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to 200 per centum of the amount of such benefit.

"(d) If the Commission determines that any candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 per centum or less the limitation set forth in section 503(b), the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditure.

"(e) If the Commission determines that any candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 per centum the limitation set forth in section 503(b), the Commission shall so notify such candidate and such candidate shall pay the Secretary an amount equal to three times the amount of the excess expenditure.

"(f) Any amount received by any eligible candidate under this title may be retained for a period not exceeding sixty days after the date of the general election for the liquidation of all obligations to pay general election campaign expenses incurred during this general election period. At the end of such sixty-day period any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) All payments received under this section shall be deposited in the Senate Fund.

"CRIMINAL PENALTIES

"SEC. 507A. (a) No candidate shall knowingly or willfully accept benefits under this title in excess of the aggregate benefits to which such candidate is entitled or knowingly or willfully use such benefits for any purpose not provided for in this title or knowingly or willfully make expenditures from his personal funds, or the personal funds of his immediate family, in excess of the limitation provided in this title.

"(b) Any person who violates the provisions of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to any expenditure in violation of the provisions of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(c)(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or authorize the use of, such benefit or such portion except as provided in section 504(d).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d)(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, vertification, notice, or report), to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title, or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(e)(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any benefits received by any candidate, or the authorized committees of such candidate, who receives benenfits under this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary for deposit in the Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 508. (a) Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

(b) The provisions of chapter 7 of title 5, United States Code, apply to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 509. (a) The Commission is authorized to appear in and defend against any action instituted under this section and under section 508 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5,

United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission is authorized through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under section 507 to be payable to the Secretary.

"(c) The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears, pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"SEC. 510. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 for payment to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507, and the reasons for each payment required; and

"(4) the balance in the Presidential Election Campaign Fund, and the balance in the Senate Fund and any other account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission is authorized to prescribe such rules and regulations in accordance with the provisioins of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justificaiton of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated to the Commission for the purpose of carrying out functions under this title, such sums as may be necessary.".

TITLE 26, UNITED STATES CODE

INTERNAL REVENUE CODE

CHAPTER 61—INFORMATION AND RETURNS

* * * * * * *

§ 6096. Designation by individuals

(a) In General.—Every individual (other than a nonresident alien) whose income tax liability for the taxable year is [$1] *$2* or more may designate that [$1] *$2* shall be paid over to the Presidential Election Campaign Fund in accordance with the provisions of section 9006(a). In the case of a joint return of husband and wife having an income tax liability of [$2] *$4* or more, each spouse may designate that [$1] *$2* shall be paid to the fund.

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TITLE 26, UNITED STATES CODE

INTERNAL REVENUE CODE

CHAPTER 95—PRESIDENTIAL ELECTION CAMPAIGN FUND

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§ 9006. Payments to eligible candidates

(a) Establishment of Campaign Fund.—There is hereby established on the books of the Treasury of the United States a special fund to be known as the "Presidential Election Campaign Fund." The Secretary of the Treasury shall, from time to time, transfer to the fund an amount not in excess of the sum of the amounts designated (subsequent to the previous Presidential election) to the fund by individuals under section 6096. There is appropriated to the fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, an amount equal to the amounts so designated during each fiscal year, which shall remain available to the fund without fiscal year limitation.

(b) Payments from the Fund.—Upon receipt of a certification from the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary of the Treasury shall pay to such candidates out of the fund the amount certified by the Commission. Amounts paid to any such candidates shall be under the control of such candidates.

(c) Insufficient Amounts in Fund.—If at the time of a certification by the Commission under section 9005 for payment to the eligible candidates of a political party, the Secretary determines that the moneys in the fund are not, or may not be, sufficient to satisfy the full entitlements of the eligible candidates of all political parties, he shall withhold from such payment such amount as he determines to be necessary to assure that the eligible candidates of each political party will receive their pro rata share of their full entitlement. Amounts withheld by reason of the preceding sentence shall be paid when the Secretary determines that there are sufficient moneys in the fund to pay such amounts, or portions thereof, to all eligible candidates from whom amounts have been withheld, but, if there are not sufficient moneys in the fund to satisfy the full entitlement of the eligible candidates of all political parties, the amounts so withheld shall be paid in such manner that the eligible candidates of each political party receive their pro rata share of their full entitlement. In any case in which the Secretary determines that there are insufficinet moneys in the fund to make payments under subsection (b), section 9008(b)(3), and section 9037(b), moneys shall not be made available from any other source for the purpose of making such payments.

(d) In order to be eligible to receive any payments under this section, a candidate described in sections (b) and (c) above shall certify to the Commission, under penalty of perjury, that during the Presidential primary and the general election period, the candidate, and his or her authorized committees and agents, has not and will not solicit, receive or spend, directly or indirectly, any funds in connection with a Federal, State or local election, including funds for get out the vote, voter registration and generic campaign activities unless such funds are subject to the provisions of this Act, including its limitations and prohibitions. For purposes of this subsection, the term "agent" includes but is not limited to any person who is, or has been authorized to raise funds; who is, or has been, an officer of an authorized committee; who is, or has been, receiving any form of compensation or reimbursement from the candidate or his authorized committees; who has, or has had, actual oral or written authorized, either express, or implied, to make or authorize the making of expenditures on behalf of a candidate or to authorize the receipt of contributions on behalf of a candidate.

TITLE 39, UNITED STATES CODE

POSTAL SERVICE

CHAPTER 36—POSTAL RATES, CLASSES, AND SERVICES

SUBCHAPTER I—POSTAL RATE COMMISSION

Sec.
3601. Establishment.
3602. Terms of office.
3603. Rules; regulations; procedures.
3604. Administration.

SUBCHAPTER II—PERMANENT RATES AND CLASSES OF MAIL

3621. Authority to fix rates and classes.
3622. Rates and fees.
3623. Mail classification.
3624. Recommended decisions of Commission.
3625. Action of the Governors.
3626. Reduced rates.
3627. Adjusting free and reduced rates.
3628. Appellate review.
3629. Reduced rates for certain Senate candidates.

* * * * * * *

§ 3626. Reduced rates

(a) If the rates of postage for any class of mail or kind of mailer under former sections 4358, 4359, 4421, 4422, 4452, or 4554 of this title, as such rates existed on the effective date of this subchapter, are, on the effective date of the first rate decision under this subchapter affecting that class or kind, less than the rates established by such decision, a separate rate schedule shall be adopted for that class or kind effective each time rates are established or changed under this subchapter, with annual increases as nearly equal as practicable, so that—

(1) the revenues received from rates for mail under former sections 4358, 4452 (b) and (c), and 4554 (b) and (c) shall not, on and after the first day of the sixteenth year following the effective date of the first rate decision applicable to that class or kind, exceed the direct and indirect postal costs attributable to mail of such class or kind (excluding all other costs of the Postal Service);

(2) the rates for mail under former sections 4359, 4421, 4422, and 4554(a) shall be equal, on and after the first day of the eighth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted; and

(3) the rates for mail under former section 4452(a) shall be equal, on and after the first day of the fifth year following the effective date of the first rate decision applicable to that class or kind, to the rates that would have been in effect for such mail if this subparagraph had not been enacted.

No person who would have been entitled to mail matter under former section 4359 of this title shall mail such matter at the rates provided under this subsection unless he files annually with the Postal Service a written request for permission to mail matter at such rates.

(b)(1) For the purposes of this title, the term "periodical publications", as used in former section 4351 of this title, includes (A) any catalog or other course listing, including mail announcements of legal texts which are part of post-bar admission education issued by any institution of higher education or by a nonprofit organization engaged in continuing legal education; and (B) any looseleaf page or report (including any index, instruction for filing, table, or sectional identifier which is an integral part of such report) which is designed as part of a looseleaf reporting service concerning developments in the law or public policy.

(2) Any material described in paragraph (1) of this subsection shall qualify to be entered and mailed as second class mail in accordance with the applicable provisions of former section 4352 through former section 4357 of this title.

(3) For purposes of this subsection, the term "institution of higher education" has the meaning given it by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(c) In the administration of this section, one conservation publication published by an agency of a State which is responsible for management and conservation of the fish or wildlife resources of

such State shall be considered a publication of a qualified nonprofit organization which qualifies for rates of postage under former section 4358(d) of this title.

(d)(1) For purposes of this title, the term "agricultural", as used in former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, includes the art or science of cultivating land, harvesting crops or marine resources, or raising of livestock.

(2) In the administration of this section, and for purposes of former sections 4358(j)(2), 4452(d), and 4554(b)(1)(B) of this title, agricultural organizations or associations shall include any organization or association which collects and disseminates information or materials relating to agricultural pursuits.

(e) Repealed.

[(e)(1) In the administration of this section, the rates for third-class mail matter mailed by a qualified political committee shall be the rates currently in effect under former section 4452 of this title for third-class mail matter mailed by a qualified nonprofit organization.

[(2) For purposes of this subsection—

[(A) the term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National Congressional Committee, and the National Republican Congressional Committee;

[(B) the term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

[(C) the term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.]

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§ 3629. Reduced rates for certain Senate candidates

The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501 of the Federal Election Campaign Act of 1971) shall be—

(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1),

provided that the total paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) shall not exceed 5 percent of the amount which is applicable to such candidate pursuant to section 503(b) of the Federal Election Campaign Act of 1971.

TITLE 47, UNITED STATES CODE

COMMUNICATIONS ACT OF 1934

CHAPTER 5—WIRE OR RADIO COMMUNICATION

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§ 315. Candidates for public office

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(b) BROADCAST MEDIA RATES.—The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election to such office shall not exceed—

(1) during the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period**[;]***: Provided, That in the case of candidates for United States Senator in a general election, as such term is defined in section 501(6) of the Federal Election Campaign Act of 1971, this provision shall apply only if such candidate has been certified by the Federal Election Commission as eligible to receive benefits under title V of such Act and such candidate is identified or identifiable during 50 percent of the time of any broadcast of a political announcement or advertisement by such candidate;* and

(2) at any other time, the charges made for comparable use of such station by other users thereof.

* * * * * * *

MINORITY VIEWS OF SENATORS STEVENS, HATFIELD, McCLURE, DOLE, GARN, AND McCONNELL

The Committee received a great deal of testimony on the problems facing our system of financing federal elections before reporting S. 137, the Senatorial Election Campaign Act to the Senate. The list of those problems is disturbingly long.

Ironically, much of this testimony concerned the developments that undermine the fundamental goals of earlier federal election reforms.

The original goals of these reform efforts included public disclosure of financing federal elections and reasonable contribution limits to widen participation in the political process and reduce the influence of groups with narrowly focused, special interest agendas. The witnesses continually pointed to the frustration of these goals by special interest groups, unregulated soft money, bundling and independent expenditures.

AREAS OF AGREEMENT

The witnesses were not alone in identifying these problems and urging that solutions be adopted later this year. After the hearings concluded but shortly before the Committee reported S. 137, a bipartisan panel of distinguished campaign finance reform experts appointed by Republican Leader Dole and Majority Leader Mitchell submitted a series of reform recommendations to the Senate Leadership.

This panel agreed on many campaign finance reform proposals. It is notable that the panel completely rejected two of the key components underlying S. 137: (1) taxpayer funding of Congressional campaigns through grants or matching funds, and (2) inflexible, arbitrarily determined spending limits.

The panel and many of the witnesses offered a strong basis on which to build a bipartisan reform package, particularly on the following issues.

—The need to reduce contributions by groups, particularly out-of-state PACs, with a narrow special interest bias. Such contributions can have the unacceptable appearance of legislative "quid pro quos" and call into question a Member's commitment to a constituency;

—The need to revitalize the role of those individuals actually living in the state of election;

—The need to strengthen and enhance the role of political parties generally;

—The need to fully disclose party and non-party soft money and reduce its impact especially from special interest sources;

—The need to reduce the costs of campaigns to promote the pursuit of issues rather than funds. The growth of campaign costs is tied to costs of broadcast advertising and a reduction in these rates would benefit challengers, incumbents, and improve the quality of campaigns;

—The need to curtail the clout of professional bundlers whose contribution prowess is far in excess of campaign contribution limits;

—The need to fully disclose and label independent expenditures; and

—The need to reduce the unfair advantages of those who have vast personal resources to spend on races.

Unfortunately, bipartisan agreement could not be achieved in Committee on such issues because of division over S. 137's campaign spending limits and taxpayer financed elections.

The bipartisan panel recommended an alternative to this spending limits impasse which is promising to us. Unfortunately, the Committee was not able to consider the panel's views thoroughly because they were unveiled shortly before the Committee's markup session.

It should be noted that the panel's recommendations do not address certain problems such as the rise in campaign financing with undisclosed non-party soft money that a comprehensive campaign finance reform package ought to include.

Thus, S. 137 was passed with a spending limits scheme similar to S. 2, which was considered in the last Congress. The Chairman, Senator Wendell Ford, expressed a willingness to consider substantive changes to the bill in an effort to reach a bipartisan consensus later in the process. We welcome the Chairman's flexibility on the matter and intend to pursue a bipartisan agreement.

OBJECTIONS TO S. 137

It is, nevertheless, important to detail our main objections to S. 137 as reported to the Senate.

The primary dangers in the spending limit scheme mandated by S. 137 is its inherent unfairness because of an anti-democratic, anti-challenger bias. Below is a chart of what the last 11 winning Senate challengers spent in unseating incumbents.

THE EFFECTS OF SPENDING LIMITS UNDER S. 137 ON WINNING SENATE CHALLENGERS, 1988 AND 1986

[Dollar amounts in millions]

Winning Senate challenger	Proposed S. 137 limits	Actual expenditures	Percent over/under S. 137 spending limits
1988 ELECTIONS			
Lieberman (CT)	$1.916	$2.571	34.19
Burns (MT)	1.587	1.076	−32.20
Kerrey (NE)	1.587	3.461	118.08
Bryan (NV)	1.587	2.958	86.39
Subtotal	6.677	10.066	50.76
1986 ELECTIONS [1]			
Shelby (AL)	$2.176	$2.408	10.66
Graham (FL)	5.016	6.581	31.20

THE EFFECTS OF SPENDING LIMITS UNDER S. 137 ON WINNING SENATE CHALLENGERS, 1988 AND 1986—Continued

[Dollar amounts in millions]

Winning Senate challenger	Proposed S. 137 limits	Actual expenditures	Percent over/ under S. 137 spending limits
Fowler (GA)	2.950	2.962	.41
Sanford (NC)	3.053	4.443	45.53
Conrad (ND)	1.587	.967	−39.07
Daschle (SD)	1.587	3.716	134.15
Adams (WA)	2.380	2.038	−14.37
Subtotal	18.749	23.115	23.29
Total percentage spending cuts for all winning senate challengers in 1988 and 1986 under the spending limits of S. 137			30.50

Expenditures adjusted to 1988 dollars with 1988 limits.

Eight of these 11 Senate winning challengers in the two elections spent over the limits S. 137 would have permitted. Since the average cut in campaign budgets for these challengers was 30.5%, we believe the election chances for these challengers would have been in serious jeopardy if the limits in S. 137 had been in place.

Proponents of spending limits correctly point out that average challenger spending has historically been under the proposed limits.

Nevertheless, a comparison of average spending by all challengers necessarily includes many non-viable challengers with relatively low expenditures. This distorts the true impact of S. 137's spending limit scheme on Senate competition.

Rather than spending averages by all challengers, the more appropriate comparison is examining what was spent by successful challengers. As the above chart shows, spending by most winning challengers far surpasses the limits of S. 137: in 1988 by over 50%; in 1986 by over 22%.

Proponents of S. 137's spending limits also argue that the proposal will benefit challengers because under them incumbent spending is expected to drop farther than challenger spending.

The assumption behind this point is that a dollar spent by an incumbent is equal to a dollar spent by a challenger. A number of witnesses challenged this assumption at the hearings.

Many challengers start with a need to establish or expand name recognition already enjoyed by incumbents. Much of an incumbent's spending, on the other hand, can be reduced without a fatal impact on the chances for success.

Cutting challenger spending, expecially critical spending needed to establish name recognition, smothers a candidate's campaign before a competitive challenge can be established.

Since a dollar spent by a challenger has a different value than one spent by an incumbent, nominally equal spending limits have inherently unequal effects.

Professor Norman Ornstein likens a Congressional race with an incumbent to a 100 yard dash where the incumbent lines up 50 yards ahead of the challenger. Imposing spending limits is akin to preserving this lead, but shortening the race to 80 yards.

The timing of spending limit proposals in this and the last Congress should also be noted. Neither S. 137 or its predecessor in the 100th Congress, S. 2, would have applied to any of the winning Senate challengers in the 1986 or 1988 elections. Yet 10 of the 11 successful challengers were from the other side of the aisle.

The first election year that spending limits contained in S. 137 can apply is 1992—a year when nearly a third more of the challengers will be Republican.

It is difficult to see what campaign finance problems spending limits solve which can't be addressed more effectively in other ways. As noted above, we are prepared to pursue solutions that would reduce cost for campaigns, reduce contributions from special interest groups, increase disclosure and regulation of soft money and decrease bundling.

OPEN TO COMPROMISE

We are ready to come to the bargaining table and develop comprehensive legislation to curb these and other abuses in the Federal campaign finance system. We are ready for legislation to cut special interest influence and shore up the influence of constituents and political parties. But we are not willing to support legislation which pays lip service to these themes while institutionalizing the Majority party's grip on the Senate—especially at taxpayers' expense. It is the bipartisan panel's approach, not the anti-challenger one of S. 137's, which will find serious consideration from us when the Senate begins its deliberations on this bill.

ADDITIONAL VIEWS OF SENATORS MITCH McCONNELL AND ROBERT DOLE

S. 137, THE SENATORIAL ELECTION CAMPAIGN ACT

The *New York Times* recently derided the "sewer" money in our campaign finance system and called for reform. S. 137, the Senatorial Election Campaign Act, would make it smell a lot worse. It would impose the failed Presidential system of spending limits on 100 Senate races. And it would make taxpayers pay for it.

Spending limits have been denounced for fifteen years as unsound, outmoded public policy by the vast majority of campaign finance scholars. These views were reiterated during three days of hearings in February. These experts span the ideological spectrum. Their reasons are always the same: spending limits do not control overall spending, but divert money into less accountable channels and suppress legitimate speech activity. Further, such limits promote cheating and disrespect for the law, as clearly seen in the Presidential system.

Between the last two presidential elections, overall spending increased 50 percent. Between the last two congressional cycles—where there are no spending limits—there was virtually no increase. Spending by Senate candidates decreased 5 percent. It is estimated that over $500 million was spent during the 1988 Presidential race—far exceeding the $325 million spent in 1984. Nearly one-third of this was soft money.

Since 1974, every single major candidate for President has been cited by the FEC for some violation of the election laws. Fewer than 5 percent of the thousands of congressional candidates have been cited. Spending limits means more jobs for lawyers and accountants. 1 out of 4 dollars in the Presidential system goes to complying with regulations and figuring out ways to get around the limits.

The 1988 Senate elections confirm what I have been saying for a long time about spending limits. They are a uniquely effective incumbent protection device. Statistics prove that the ability to spend without any limit is far more important to challengers than it is to incumbents.

In the 1988 Senate elections, nearly 90 percent of the incumbents who spent under the limits that would be set by S. 137 won their race. By comparison, of the 19 challengers who spent under the limits set by S. 137, 95 percent lost the race.

Eighty-five percent of the incumbents who spent over the S. 137 limits won—a lower winning percentage that for incumbents who spent below the limits. But for challengers, the ability to spend above the limits was decisive. Compared to a 5 percent winning record for challengers who spent below the limits—38 percent of the challengers who spent above the limits set by S. 137 were able to defeat the incumbent.

Only one of the challengers who defeated an incumbent in 1988 actually outspent the incumbent. But 75 percent of the challengers who won had to spend above the S. 137 limits to do it. Consequently, if we enact the spending limits contained in S. 137, the figures from 1988 show that challengers will have a 5 percent chance of unseating an incumbent in the future. Whereas, without the limits, challengers at least have about a 40 percent chance of winning in the Senate. I cannot conceive of a more effective and deliberate incumbent protection strategy than the spending limits in S. 137.

While this bill would shield incumbents from challengers, it opens our campaign finance system up for abuse eclipsing anything we have seen in the Presidential system. Spending limits will not remove money from the election process, they will remove it from the glare of public disclosure. They simply will force it into undisclosed and unreported channels. Individuals will be squeezed from the system, and special interests will be given the green light to influence campaigns through independent expenditures, and soft money. Our constituents will not be served by spending limits, special interests will be.

S. 137 does nothing to address the proliferation of corporate and union soft money. It does not do enough to deal with independent expenditures which total tens of millions of dollars a year. It does not address the problem of tax-exempt groups influencing elections, central to the "Keating Scandal". There cannot be true reform until these issues are dealt with.

The perceived stench coming from the campaign finance system emanates not from the expenditures of candidates, but from the special interest sources of funds. The bi-partisan taskforce recognized this distinction and proposed limits on out-of-state contributions and PAC contributions while preserving the right of individual consituents to support the candidates of their choosing.

The bi-partisan taskforce presented us with common ground on which to agree to real reform of the campaign finance system. We must take this opportunity to restore confidence in our electoral process, not squander it on a partisan attempt to ensure a permanent majority in Congress.

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